

8 JANUARY 1948

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Of
WITNESSES

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I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1054 (19)		3702	Letter of the Kwantung Army Chief of Staff KIMURA, Heitaro on 30 November 1940 to the Vice-War Minister ANAMI, Korochika re the Admittance of the Japan- ese into the Manchurian Army and the answer of the Vice-War Minister to the Kwantung Army Chief of Staff on 3 December 1940	36917	
2963	3703		Affidavit of TANAKA, Ryukichi		36924
2955	3704		Affidavit of INOUE, Tadao		36926
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2953	3706		Affidavit of WAKAMATSU, Tadaichi		36937
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<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
	3710		Japanese Trade Studies - Annotated Tabular Survey of the Trade of Japan Proper (in- cluding that with Korea and Formosa)	36966	
500-E	3710-A		Excerpts therefrom - (listed on Record pages 36,965-66)		36966
	3711		Japanese Trade Studies - The Shipping Industry of Japan	36967	
500-G	3711-A		Excerpts therefrom - (see pages 24,850-51 of the Record)		36967
	3712		Japanese Trade Studies - The Overseas Trade of Japan Proper in- cluding a summary of the Prewar Trade and a Discussion of Post- war Problems	36967	
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<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
	3713		Japanese Trade Studies - Kwantung Leased Territory - a Brief Summary of its Economy	36968	
500-A-D	3713-A		Excerpt therefrom - (last sentence on page 7)		36968
500-A-1 to 500-A-37	3714		Japanese Trade Studies - (summary thereof shown on pages 24,837-8-9 of the Record)		36968
2960	3715		Affidavit of KOSAKA, Yasumasa		36980
2790	3716		Affidavit of Joseph C. Grew, Ambassador of the United States to Japan from 1932-1941		36993
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2790-A	3716-A		Affidavit of Ambassador Grew re Conversation between himself and Mr. HIROTA, Koki as Minister for Foreign Affairs on 27 October 1933		37000

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EXHIBITS
(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pres. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2790-E	3716-B		Affidavit of Ambassador Grew re Conversation between himself and Mr. HIROTA, Koki as Prime Minister on 1 September 1937		37005
2790-F	3716-C		Affidavit of Ambassador Grew re Conversation between himself and Mr. HIROTA, Koki as Minister for Foreign Affairs on 24 December 1937		37009
2846	3717		Cabled Questions pro- pounded to Sir Robert Craigie on behalf of the Honorable HIROTA, Koki on 27 October 1947		37016

Thursday, 8 January 1948

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting,
with the exception of: HONORABLE JUSTICE JARANILLA,
Member from the Republic of the Philippines, not
sitting from 1330 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

THE PRESIDENT: Colonel Ivanov.

- - -

SEITARO TAKEI, called as a witness
on behalf of the defense, resumed the stand
and testified through Japanese interpreters
as follows:

CROSS-EXAMINATION

BY COLONEL IVANOV (Continued):

Q May the witness be shown prosecution's
document No. 1054(19)?

(Whereupon, a document was handed
to the witness.)

Mr. Witness, examine this document and tell
us whether this document is a letter of the former
Chief of Staff of the Kwantung Army, the accused
KIMURA, Heitaro, to the Deputy Foreign Minister
regarding the utilization of the Japanese in the
Manchurian Army.

A This document purports to be a communica-
tion from the Chief of Staff of the Kwantung Army to
the Vice-War Minister.

Q However, Mr. Witness, at that time General
UMEZU was Commanding General of the Kwantung Army,

1 and General KIMURA, Heitaro, Chief of Staff, was
2 his closest associate; isn't that so?

3 A Yes, as you say.

4 COLONEL IVANOV: Your Honor, I offer in
5 evidence prosecution's document No. 1054(19) as an
6 evidence of the fact that the accused UMEZU and KIMURA
7 in November 1940, ~~preparing for a large-scale war~~,
8 took measures to replenish the Manchurian Army with
9 the Japanese reservists.

10 THE PRESIDENT: Major Blakeney.

11 IR. BLAKENEY: The document seems to be
12 dated in 1940, which is well before the period con-
13 cerning which this witness testified, and therefore
14 I submit that it is not proper cross-examination
15 within the scope of his testimony and should be
16 excluded.

17 COLONEL IVANOV: Your Honor, that is true.
18 This document relates to December 1940, when the
19 present witness was Staff Officer of the Kwantung
20 Army.

21 Your Honor, I invite the attention of the
22 Tribunal that the document which I am offering now
23 and also the documents which I offered yesterday,
24 all these documents refute the contention made by the
25 present witness in item 4 of his affidavit. This

TAKEI

CROSS

36,917

1 document shows that the Kwantung Army was not only
2 preparing itself for a speedy commencement of hos-
3 tilities against the U. S. S. R., but simultaneously
4 was preparing for the same purpose the army of Man-
5 chukuo.

6 THE PRESIDENT: We cannot see the connection,
7 Colonel. The objection is sustained and the document
8 rejected.

9 COLONEL IVANOV: May this document be
10 marked for identification.

11 CLERK OF THE COURT: Prosecution document
12 1054(19) will receive exhibit No. 3702 for identifi-
13 cation only.

14 (Whereupon, the document above
15 referred to was marked prosecution exhibit
16 No. 3702 for identification.)

17 BY COLONEL IVANOV (Continued):

18 Q Mr. Witness, do you know that on December 8,
19 1941, the Chief of the Department of General Affairs
20 of Manchukuo, at the request of UMEZU, made a public
21 declaration on behalf of the government pointing out
22 in that declaration the readiness of Manchukuo to
23 assist Japan with resources, labor power, materials,
24 and foodstuffs?
25

A I did know of that, but my work was not

TAKEL

CROSS

36,918

1 directly concerned with contacting the Manchukuo
2 Government.

3 Q Mr. Witness, isn't it true that the accused
4 UMEZU in 1941 and 1942 welcomed the commencement of
5 the Pacific War by Japan and the victories which were
6 being gained by Japan in the first stage of that war?

7 A It is true that General UMEZU was against
8 the Pacific War; that is, he did not like the idea
9 of a Pacific War; but once the war had broken out
10 he was convinced that it must be carried through
11 to victory.

12 Q In such a way, isn't it clear from the
13 replies which you have given to my last two questions
14 that -- isn't it clear that the contention in your
15 affidavit that the accused UMEZU was against the
16 Pacific War is not true?

17 THE PRESIDENT: We do not want him to
18 repeat what he has said already.

19 COLONEL IVANOV: That concludes my cross-
20 examination, your Honor.

21 THE PRESIDENT: Major Blakeney.
22
23
24
25

REDIRECT EXAMINATION

1 BY MR. BLAKENEY:

2 Q Mr. Witness, you have been shown in the form
3 of exhibits 3700 and 3701 some excerpts from speeches
4 made in April and December, respectively, 1941 by
5 the Chief of Staff of the Kwantung Army. You stated
6 yesterday, I believe, that these excerpts were not
7 representative of the entire speeches; is that correct?
8

9 A That is correct. The contents read yester-
10 day constituted only a small portion of the speeches
11 made by General UMEZU.

12 THE MONITOR: Strike that. Just a portion
13 of the speeches selected.

14 A (Continuing) -- of the speeches; and unless
15 you read the whole speeches, it will be impossible to
16 understand how the Kwantung Army was bending every
17 effort towards -- correction: in line with the Russo-
18 Japanese Pact of Amity and how faithful General UMEZU
19 was to his given duties in 1941.

20 THE MONITOR: Correction on the first part:
21 unless the whole speeches and lectures were read or
22 studied.

23 Q Well, I haven't got the whole speech, so I
24 will ask you to state the gist of what was in the
25 remainder of these two speeches, that is, if you

1 know, of course.

2 A The contents of the speech as a whole were
3 as follows: General UMEZU in this speech showed his
4 attitude to all the divisions under his command --
5 what the conduct of the Kwantung Army should be in
6 order to maintain peace between Russia and Japan.
7 But, in view of the task of defending Manchukuo, which
8 was the main duty of the Kwantung Army, he also
9 pointed out that the Army should always maintain a
10 state of preparedness so that it would be prepared in
11 the event any unseen circumstance, such as the sudden
12 declaration of war by Russia on Japan and the subse-
13 quent invasion in August of 1945, should occur, as
14 even in those days we were fearful of the possibili-
15 ties of such an attack. Those were the main points
16 of his speech.

17 Q By the way, who wrote these speeches?

18 A I drafted this speech -- these speeches.

19 MR. BLAKENEY: That is all.

20 THE PRESIDENT: Who made the digest?

21 THE WITNESS: May I ask what is meant by
22 digest?

23 THE PRESIDENT: The summary of the speech
24 tendered in evidence.

25 THE WITNESS: A staff officer in the Second

1 Section, namely, the Information Section or Intelli-
2 gence Section.

3 MR. BLAKENEY: May the witness be excused?

4 THE PRESIDENT: He is excused -- Colonel
5 Ivanov. Bring him back.

6 COLONEL IVANOV: I ask the permission of
7 the Tribunal to ask this witness one or two questions.

8 THE PRESIDENT: On what ground, Colonel?

9 COLONEL IVANOV: I believe, your Honor,
10 that I am entitled to ask these questions because they
11 arise out of the cross-examination by defense counsel --
12 redirect examination by defense counsel.

13 THE PRESIDENT: Only if new matter is intro-
14 duced could you cross-examine. He introduced no new
15 matter.

16 COLONEL IVANOV: Your Honor, what I meant to
17 say was that I wanted to clarify the attitude of the
18 present witness to the drafting of the document --
19 the connection this witness had with the drafting of
20 the document.

21 THE PRESIDENT: I do not think that is new
22 matter. I did not raise any nor did Major Blakeney.
23 If we make a concession to you, we have to make it to
24 all counsel on demand. Therefore, we cannot afford
25 to make any concessions. The witness is excused on

the usual terms.

1 COLONEL IVANOV: Yes, your Honor.

2 (Whereupon, the witness was ex-
3 cused.)

4 THE PRESIDENT: Major Blakeney.

5 MR. BLAKENEY: In connection with these two
6 speeches, this is perhaps the appropriate time to
7 make the formal request that the entirety of the
8 documents be made available inasmuch as the parts
9 tendered by the prosecution are excerpts only, and,
10 of course, the originals have not been filed, as
11 usually happens with excerpts. As I read the certifi-
12 cate attached, it appears, although it may be some-
13 what ambiguous, that the entire document must be in
14 the possession of the prosecution.
15

16 THE PRESIDENT: Colonel Ivanov.

17 COLONEL IVANOV: Your Honor, the prosecution
18 has submitted the documents in their entirety, and we
19 have no other documents in our possession. This may
20 be clearly seen from the certificate which is attached
21 to any of these documents.

22 MR. BLAKENEY: Well, it is evident that the
23 documents are not submitted in their entirety for, if
24 you look at exhibit 3700, you find that it starts
25 with section 4. If counsel means that he has sub-

TAKEI

REDIRECT

36,923

1 mitted all that he has, that is another matter which
2 I understand.

3 COLONEL IVANOV: Your Honor, in connection
4 with the last remark of defense counsel, I would like
5 to call the attention of the Tribunal to the fact
6 that the responsibility for preserving the documents
7 lay with the Japanese Government and with those
8 accused who headed the government at that time. I
9 once more repeat that we offered to the Tribunal all
10 the documents that we had.

11 THE PRESIDENT: Well, we have to take your
12 word for it. We are not questioning that.
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1 MR. BLAKENEY: I will proceed by subpoena in
2 the usual way.

3 I now offer in evidence defense document No.
4 2963, this being the affidavit of the witness TANAKA,
5 Ryukichi whose attendance for cross-examination I
6 understand is not required.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document 2963
9 will receive exhibit No. 3703.

10 (Whereupon, the document above re-
11 ferred to was marked defense exhibit No. 3703
12 and received in evidence.)

13 MR. BLAKENEY: I read the exhibit, which,
14 omitting the formal parts, is as follows:

15 "I state chiefly about relations between
16 General UMEZU and the Pacific War, as follows:

17 "1. Tokyo never consulted with the Commander-
18 in-Chief of the Kwantung Army nor gave him advance
19 information about the plan or decision for starting
20 the Pacific War.

21 "2. Staff Officer of the Kwantung Army TAKEI
22 told me as follows when he came up to Tokyo on
23 business in November 1941:

24 "General UMEZU, being told that the negotiations
25 with the United States have come to a very critical

1 condition, is in serious anxiety. He is of the opinion
2 that a war with the United States should absolutely be
3 avoided under any conditions.'

4 "Though this was only General UMEZU's private
5 opinion, and not an expression of official opinion,
6 I learned by this that General UMEZU did not favor
7 starting a Pacific War."

8 I shall read a very short excerpt from
9 prosecution exhibit No. 1922. The passage in question
10 may be found on page 2 of the exhibit, paragraph numbered
11 2. In case some have not the document, I might say
12 that this is the "Protocol Concerning Treatment of
13 Allied Air Force Flight Personnel in the Central
14 District," dated the 26th of December 1945.

15 Paragraph 2 of section V is as follows:

16 "Consequently, concerning the indictment and
17 term of punishment, the 15th Area Army Commander
18 (concurrently the Central Military District Commander)
19 submitted a written report to the Minister of War,
20 together with the opinion of the Prosecution Officer
21 recommending the death penalty for both of them in
22 about the middle of June, and indicted them upon
23 receipt of approval in the latter part of June."

24 I call as a witness INOUE, Tadao who testifies
25 by defense document No. 2955.

INOUE

DIRECT

36,926

1 T A D A O I N O U E, called as a witness on behalf of
2 the defense, being first duly sworn, testified
3 through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. BLAKENEY:

6 Q Please state your name, Mr. Witness.

7 A INOUE, Tadao.

8 MR. BLAKENEY: Please let him be handed defense
9 document No. 2955 please.

10 (Whereupon, a document was handed
11 to the witness.)

12 Q Please examine that document and state whether
13 it is your affidavit, executed by you.

14 A It is.

15 Q And, are the contents thereof true and correct
16 to the best of your knowledge?

17 A They are true.

18 MR. BLAKENEY: I offer in evidence the affidavit
19 defense document No. 2955.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 2955 will
22 receive exhibit No. 3704.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3704 and received in evidence.)

INOUE

DIRECT

36,927

MR. BLAKENEY: I read exhibit No. 3704:

1 "1. I am a former lieutenant-colonel of the
2 Japanese Army, residing in Tokyo to Sinagawa-ku Kami-
3 Osaki 5-631.

4 "2. I was appointed as a staff officer of
5 Imperial General Headquarters on 2 December 1944, and
6 belonged to the General Affairs Section. My duty was to
7 work as secretary for the Chief of the General Staff, in
8 which capacity I handled all telegrams and other docu-
9 ments which were reported to him.

10 "3. From the end of 1944 into 1945, the con-
11 dition of the war came to be unfavorable to our army,
12 communications between the Imperial General Headquarters
13 and the Southern Army or the China Expeditionary Army
14 especially coming to be of the utmost difficulty owing
15 to the activities of the United States air force and sub-
16 marines. Accordingly, we found no way but to depend on
17 radiograms for communication with the forces in the
18 theaters. However, the quantity of communication by
19 radiogram was naturally limited, and communications with
20 the theaters were almost monopolized by such urgent
21 matters as operations and reports of war conditions.

22 "4. In such circumstances, no reports about
23 atrocities and other conditions at the front ever
24 reached us. I have, therefore, never seen documents of
25

INOUF

DIRECT

36,928

1 such sort, nor handed them over to the Chief of the
2 General Staff for his inspection. He also never gave
3 directions to anybody relating to those matters.

4 "5. As for reports to the War Minister from
5 the front relating to court-martial of B-29 pilots, I
6 have neither handled them, nor handed them over to the
7 Chief of the General Staff for his inspection.

8 "6. We first came to know about the illegal
9 punishment of B-29 pilots after the surrender. No
10 such subject appeared among my conversations with the
11 Chief of the General Staff before that.

12 "7. The Imperial General Headquarters had no
13 legal officer, nor had it either any organ to handle and
14 investigate matters in respect to trials. Those were
15 under the War Minister."

16 You may cross-examine.

17 THE PRESIDENT: Colonel Woolworth.

18 MR. WOOLWORTH: If the Tribunal please.

19 CROSS-EXAMINATION

20 BY MR. WOOLWORTH:

21 Q What duty were you on, Mr. Witness, prior to
22 the time you became secretary to the Chief of the General
23 Staff?

24 A I was a staff officer of the 6th Area Army in
25 China.

1 Q I didn't understand where that Army was
2 located.

3 THE INTERPRETER: "In China."

4 Q What did you do with the copies of the protests
5 from protecting powers which came from the Foreign
6 Ministry and were sent to you protesting against the
7 treatment of prisoners of war?

8 A I don't know.

9 Q Do you mean to say you didn't receive copies
10 of those protests?

11 A It is not in my recollection.

12 Q Is your memory normal?

13 A It is normal.

14 Q The representatives of the Foreign Ministry
15 Prisoner of War Information Bureau have testified that
16 copies of these protests were sent to the Chief of Staff.
17 Do you mean to contradict that testimony?

18 A I do not think there were any such documents
19 among those I handled myself.

20 Q Well, who else in the office of the General
21 Staff would handle such matters if they were addressed to
22 the Chief of Staff?
23

24 A As documents are sent from office to office,
25 occasions arise where some documents are disposed of
before reaching the Chief of Staff and before he passes --

1 Q I didn't understand where that Army was
2 located.

3 THE INTERPRETER: "In China."

4 Q What did you do with the copies of the protests
5 from protecting powers which came from the Foreign
6 Ministry and were sent to you protesting against the
7 treatment of prisoners of war?

8 A I don't know.

9 Q Do you mean to say you didn't receive copies
10 of those protests?

11 A It is not in my recollection.

12 Q Is your memory normal?

13 A It is normal.

14 Q The representatives of the Foreign Ministry
15 Prisoner of War Information Bureau have testified that
16 copies of these protests were sent to the Chief of Staff.
17 Do you mean to contradict that testimony?

18 A I do not think there were any such documents
19 among those I handled myself.

20 Q Well, who else in the office of the General
21 Staff would handle such matters if they were addressed to
22 the Chief of Staff?

23 A As documents are sent from office to office,
24 occasions arise where some documents are disposed of
25 before reaching the Chief of Staff and before he passes --

Chief of the General Staff and before he passes his eyes
1 over it -- without the Chief of the General Staff ever
2 looking through it.

3 Q Would those document come into your hands neces-
4 sarily?

5 A What do you mean by "necessarily"?

6 Q Well, you say you were the secretary to the Chief
7 of the General Staff. Any documents addressed to him
8 would necessarily go to your office, would they not?
9

10 A Not necessarily so.

11 Q The various witnesses have testified before this
12 Tribunal that the War Minister, as such, had no respons-
13 ibility for the conduct of the armies in the field, that
14 the responsibility was with the Chief of the General
15 Staff, is that true?

16 A My belief is that matters -- problems that may
17 arise in armies in the field would be handled on the
18 responsibility of the commanders of those armies.

19 Q And, they were responsible directly to the Chief
20 of Staff, were they?

21 A They were not responsible directly to the Chief
22 of Staff -- to the Chief of the General Staff.

23 Q Who issued orders to the armies in the field?

24 A I believe that the Chief of the General Staff
25 has the responsibility of communicating orders emanating

...is released accordingly.
...the witness be released on
...I do not possess
...already been
...communication?
...on
...downs:
...which
...an
...et?
...in
...execution
...is this
...after the
...condem-
...military
...it is an
...reaction with regard to punishment
...of the arbitrary actions of the
...to prisoners of war, and moreover
...of the English translation. It should there-
...in July and August of that year or
...year," have been omitted from page 1, paragraph 3,
...by an inadvertence the words, "in July and August of
...it, defense document No. 2909.
...it, defense document No. 2909.
...it, defense document No. 2909.
...it, defense document No. 2909.

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THE PRESIDENT: What is the relevance of his hope and opinion?

MR. BLAKENEY: I am sorry. I didn't catch that, your Honor.

THE PRESIDENT: Have a look at the last paragraph expressing his hope and opinion.

MR. BLAKENEY: Some weeks ago I pressed a rather elaborate argument based on the premise that the opinions, which is another word for intentions, of defendants at any period is relevant as showing their conspiratorial frame of mind or otherwise. I therefore thought that this matter might be of interest to the Tribunal, but if the Tribunal is not interested in it,

from the High Command.

1 THE MONITOR: Just a minute.

2 THE INTERPRETER: "High Command orders."

3 THE MONITOR: Just a moment. "I believe the
4 Chief of the General Staff has the responsibility of
5 transmitting or communicating orders that had to do with
6 command problems or command of troops."

7 Q Then, he was merely the channel of communication?

8 A I believe that these matters have already been
9 considered and studied, and I am not -- I do not possess
10 full knowledge of the details of this matter.

11 MR. WOOLWORTH: No further examination.

12 MR. BLAKENEY: May the witness be released on
13 the usual terms?

14 THE PRESIDENT: He is released accordingly.

15 (Whereupon, the witness was excused.)
16

17 - - -

18 MR. BLAKENEY: I call as my next witness
19 SHIMOMURA, Sadao, whose testimony is contained in his
20 affidavit, defense document No. 2909.

21 While he is coming I might say that it appears
22 that by an inadvertence the words, "in July and August of
23 that year," have been omitted from page 1, paragraph 3,
24 line 1, of the English translation. It should there-
25 fore read, "...in July and August of that year of

American pilots. . ."

1

- - -

2

S A D A O S H I M O M U R A, called as a witness on
3 behalf of the defense, being first duly sworn,
4 testified through Japanese interpreters as follows:

5

DIRECT EXAMINATION

6

BY MR. BLAKENEY:

7

Q State your name please, Mr. Witness.

8

A SHIMOMURA, Sadao.

9

Q Please examine defense document No. 2909, which
10 has been handed to you, and state whether that is an
11 affidavit executed by you.

12

A This is undoubtedly my affidavit.

13

Q Are the contents thereof true and correct?

14

A They are true and correct.

15

16 MR. BLAKENEY: The affidavit is offered in
17 evidence.

18

THE PRESIDENT: Colonel Ivanov.

19

20 COLONEL IVANOV: Your Honor, the prosecution
21 objects to the introduction of this document as this
22 document deals with the events which took place after the
23 surrender of Japan and is, in fact, a belated condem-
24 nation of the arbitrary actions of the Japanese military
25 with regard to prisoners of war, and moreover it is an
attempt at a belated reaction with regard to punishment

of the guilty.

1 THE PRESIDENT: Major Blakeney.

2 MR. BLAKENEY: The testimony of the witness
3 treats of a period included within the Indictment here-
4 in even if it is after the surrender of Japan, and I
5 submit that it has a direct bearing not only on the
6 attitude of this defendant towards the matters herein
7 treated of but very clearly on the extent of his know-
8 ledge. I assume that this question of atrocities and
9 related actions is one in which the bringing home of
10 knowledge to the defendant is peculiarly important. I
11 therefore --

12
13 THE PRESIDENT: What is the relevance of his
14 hope and opinion?

15 MR. BLAKENEY: I am sorry. I didn't catch that,
16 your Honor.

17 THE PRESIDENT: Have a look at the last para-
18 graph expressing his hope and opinion.

19 MR. BLAKENEY: Some weeks ago I pressed a
20 rather elaborate argument based on the premise that the
21 opinions, which is another word for intentions, of
22 defendants at any period is relevant as showing their
23 conspiratorial frame of mind or otherwise. I therefore
24 thought that this matter might be of interest to the
25 Tribunal, but if the Tribunal is not interested in it,

1 I don't care to press it.

2 THE PRESIDENT: By a majority the first two
3 paragraphs are admitted and the paragraph last referred
4 to rejected on the usual terms.

5 MR. BLAKENEY: I assume that shall be the
6 first three, your Honor.

7 THE PRESIDENT: Well, "Having first duly sworn,"
8 that would go in, of course.

9 CLERK OF THE COURT: Defense document 2909 will
10 receive exhibit No. 3705.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 3705 and received in evidence.)
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MR. BLAKENEY: I will read the exhibit as
admitted, omitting the first formal paragraph:

"After General ANAMI, the then Minister of War,
committed suicide with a sword on 15 August 1945, the
Premier assumed the portfolio for a time and subsequent-
ly I was appointed as War Minister on 23 August and
assumed office on that same day.

"I learned first after my appointment of the
execution in July and August of that year of American
pilots in Japan Proper, without trial or by sentence of
the courts martial. I thought it my responsibility as
Minister of War to punish these violations strictly, and
so informed the Chief of the General Staff, General
UMEZU. He was very much surprised, and agreed with my
opinion, saying about as follows:

"Until this moment I did not know of these
facts at all. Even if these violations were the result
of indignation over indiscriminate bombing by American
planes, it is quite unjust to punish the pilots without
legal processes. Therefore, it is unnecessary to await
the instructions of the Allied forces in this matter,
and we must voluntarily impose punishment strictly and
fairly, after investigating the facts."

I now offer in evidence --

THE PRESIDENT: I have a question on this, if

1 there is to be no cross-examination.

2 MR. BLAKENEY: I am sorry; I forgot the wit-
3 ness was here. I beg your pardon, your Honor.

4 BY THE PRESIDENT: .

5 Q You say you thought it was your responsibility
6 as War Minister to punish these violations strictly.
7 How far did your responsibility as War Minister, as to
8 these violations of the rules of warfare, go?

9 A Since I became War Minister after the conclusion
10 of the war, I felt it my responsibility to investigate
11 these facts which had occurred during the course of the
12 war, and to punish violators with the means then
13 at my disposal.

14 Q Did you impose any punishments?

15 A During my tenure of office no punishments were
16 actually -- no sentences were actually pronounced. No
17 punishments were actually executed or meted out.

18 Q How long were you Minister for War?

19 A From the 23rd of August 1945 to the 30th of
20 November 1945.

21 Q And why did you not have punishments imposed
22 during that period?

23 A During that period I devoted all my energies to
24 investigations and I was unable to obtain a correct re-
25 port on the results of these investigations before I

resigned.

1 Q There were no prosecutions started?

2 A No, they were not yet started at that time.

3 MR. BLAKENEY: Do you wish to cross-examine?

4 COLONEL ~~WAKANO~~OV: Your Honor, the prosecution
5 does not desire to cross-examine.

6 MR. BLAKENEY: I ask that the witness be re-
7 leased on the usual terms.

8 THE PRESIDENT: He is released accordingly.

9 (Whereupon, the witness was
10 excused.)

11 MR. BLAKENEY: I now offer in evidence the
12 affidavit of the witness WAKAMATSU, Tadaichi, defense
13 document No. 2953.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document 2953 will
16 receive exhibit No. 3706.

17 (Whereupon, the document above re-
18 ferred to was marked defense exhibit No.
19 3706 and received in evidence.)

20 MR. BLAKENEY: I read the exhibit, which, omitting
21 the formal parts, is as follows:

22 "At the time of the surrender, I occupied the
23 post of Vice-Minister of War.

24 "On 14 August 1945, Vice-Chief of the General
25

Staff, Lieutenant-General KAWABE Torashiro, gave me a
1 suggestion that an agreement be made in written form
2 between the senior generals of the army so that the ac-
3 tion of the army might be under complete control. He
4 added that this was the intention of Chief of the General
5 Staff UMEZU.

6 "On that day, by chance, Field Marshal HATA,
7 Commander in Chief of the 2d General Army, was in Tokyo
8 and I thought it a good idea to have the above agree-
9 ment made on the occasion of a meeting which was to be
10 held at noon of the same day, at which HATA, Field Mar-
11 shal SUGIYAMA, the Commander in Chief of the 1st General
12 Army, and the Big Three of the Army (War Minister ANAMI,
13 Chief of the General Staff UMEZU, and Inspector-General
14 of Military Education KOHIMURA) were to attend. So I
15 drew up the document 'The Course of Action of the Army'
16 (defense document No. 2906) and made a suggestion to
17 that effect. No one objected to it, and all of them
18 agreed and signed the paper.

19
20 "At this moment, Chief of the General Staff
21 UMEZU called my attention to the necessity of getting
22 the signature of Commander of the General Air Force,
23 since the control of the conduct of the Air Force also
24 was important. Therefore, after the meeting I went to
25 General KAWABE, Masakazu, Commander of the General Air

1 Force, with this paper and explained the circumstances,
2 whereupon he also signed it.

3 "From that time this document has been in my
4 custody."

5 The document, "The Course of Action of the
6 Army," referred to in the testimony of General WAKAMATSU,
7 is offered in evidence, defense document No. 2906.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document 2906
10 will receive exhibit No. 3707.

11 (Whereupon, the document above
12 referred to was marked defense exhibit No.
13 3707 and received in evidence.)
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1 MR. BLAKENEY: It is as follows:

2 "14:40 hours 14 August 1945. At the drawing-
3 room of War Minister.

4 "The Imperial Army will conduct itself to the
5 last according to the decision of the Emperor.

6 "War Minister

7 "Chief of General Staff

8 "Inspector-General of Military Education

9 "Commander-in-Chief of the 1st General Army

10 "Commander-in-Chief of the 2d General Army

11 "Commander-in-Chief of the General Air Force"

12 with their seals.

13 next call the witness IKEDA Sumihisa, whose
14 testimony is embodied in his affidavit, defense document
15 No. 2962.

16 I should mention that the last sentence of the
17 affidavit, having been stricken from the original, should
18 not appear in the English translation and therefore will
19 not be offered.
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1 S U M I H I S A I K E D A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. BLAKENEY:

6 Q Please state your name and residence.

7 A My name is IKEDA Sumihisa. My address is
8 472 4-chome, Saginomiya, Nakano-ku, Tokyo.

9 MR. BLAKENEY: Let him be handed defense docu-
10 ment 2962, please.

11 (Whereupon, a document was handed
12 the witness.)

13 Q Examine that and state whether or not it is your
14 affidavit, duly executed by you.

15 A This is my affidavit.

16 Q Are the contents true and correct?

17 A Yes, as you say.

18 MR. BLAKENEY: I offer in evidence the affi-
19 davit, defense document No. 2962, except, as previously
20 mentioned, the last sentence thereof.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Defense document 2962
23 will receive exhibit No. 3708.

24 (Whereupon the document above re-
25 ferred to was marked defense exhibit No. 3708

and received in evidence.)

1 MR. BLAKENEY: I read the affidavit, omitting
2 the formal parts:

3 "1. I am a former lieutenant-general of the
4 Japanese Army, and served under Commander-in-Chief of
5 the Kwantung Army UMEZU as Vice-Chief of his staff from
6 1 July 1942 to 18 July 1944.

7 "On 17 July 1944, a telephone call came from
8 Tokyo conveying an order for General UMEZU to come up
9 to Tokyo as soon as possible, and which simultaneously
10 conveyed an informal order for his appointment as Chief
11 of the General Staff. At that moment, as it happened,
12 I was calling on him on other business, and he consulted
13 with me, saying as follows:

14 "Since from the very beginning I have opposed
15 the war against the United States, I hate to accept
16 this appointment. Moreover, the war is now in a condi-
17 tion unfavorable to us; there are no more measures which
18 I can take as Chief of the General Staff. In every way
19 I do not like to accept it. Is there any way to refuse?"

20 "Then I replied: 'As the War Minister is one of
21 the government officials, you can upon being consulted
22 concerning appointment to that post give your opinion
23 about accepting it, and if necessary you can refuse it.
24 The Chief of the General Staff, however, is a military
25

1 official, and not only is preliminary consultation never
2 had, but also it is not permissible to refuse it after
3 once an informal order has been given.

4 "He answered, quite displeased: 'You are right.
5 I will go to Tokyo.'

6 "He added his further opinion as follows:
7 'The stage of the war is quite unfavorable to us. It
8 is necessary to end this war as soon as possible. For
9 that purpose diplomatic or other sorts of measures will
10 be required.'

11 "2. After that, on 28 July 1945, I was appoint-
12 ed President of the Combined Planning Board of the Cabi-
13 net, serving under the SUZUKI Cabinet. Until the surrender
14 I attended every cabinet meeting and also I attended the
15 two Imperial Conferences; especially I served the part
16 of liaison between the Army and the Government. In
17 order to carry out this purpose I often met and talked
18 with War Minister ANAMI and Chief of the General Staff
19 UMEZU, and I was quite well informed about the opinion
20 and the delicate circumstances of the Army concerning
21 the surrender.

22 "Once General UMEZU told me: 'Of course I
23 have no objection to ending the war; as for the terms
24 of it, however, the country might fall into a most
25 terrible situation, depending on them. Therefore, the

1 official, and not only is preliminary consultation never
2 had, but also it is not permissible to refuse it after
3 once an informal order has been given.

4 "He answered, quite displeased: 'You are right.
5 I will go to Tokyo.'

6 "He added his further opinion as follows:
7 'The stage of the war is quite unfavorable to us. It
8 is necessary to end this war as soon as possible. For
9 that purpose diplomatic or other sorts of measures will
10 be required.'

11 "2. After that, on 28 July 1945, I was appoint-
12 ed President of the Combined Planning Board of the Cabi-
13 net, serving under the SUZUKI Cabinet. Until the surrender
14 I attended every cabinet meeting and also I attended the
15 two Imperial Conferences; especially I served the part
16 of liaison between the Army and the Government. In
17 order to carry out this purpose I often met and talked
18 with War Minister ANAMI and Chief of the General Staff
19 UMEZU, and I was quite well informed about the opinion
20 and the delicate circumstances of the Army concerning
21 the surrender.

22 "Once General UMEZU told me: 'Of course I
23 have no objection to ending the war; as for the terms
24 of it, however, the country might fall into a most
25 terrible situation, depending on them. Therefore, the

1 official, and not only is preliminary consultation never
2 had, but also it is not permissible to refuse it after
3 once an informal order has been given.

4 "He answered, quite displeased: 'You are right.
5 I will go to Tokyo.'

6 "He added his further opinion as follows:

7 "The stage of the war is quite unfavorable to us. It
8 is necessary to end this war as soon as possible. For
9 that purpose diplomatic or other sorts of measures will
10 be required.'

11 "2. After that, on 28 July 1945, I was appoint-
12 ed President of the Combined Planning Board of the Cabi-
13 net, serving under the SUZUKI Cabinet. Until the surrender
14 I attended every cabinet meeting and also I attended the
15 two Imperial Conferences; especially I served the part
16 of liaison between the Army and the Government. In
17 order to carry out this purpose I often met and talked
18 with War Minister ANAMI and Chief of the General Staff
19 UMEZU, and I was quite well informed about the opinion
20 and the delicate circumstances of the Army concerning
21 the surrender.

22 "Once General UMEZU told me: 'Of course I
23 have no objection to ending the war; as for the terms
24 of it, however, the country might fall into a most
25 terrible situation, depending on them. Therefore, the

1 war should be brought to its conclusion on the best
2 conditions possible.'

3 "Then some of the military officers were anxious
4 about the compromising attitude of the Cabinet and the
5 Jushin, and advocated that the Army should continue the
6 war, even by carrying out a coup d'etat, UMEZU told me
7 as follows: 'Such conduct is not proper at all. The
8 circumstances of today do not permit such conduct.
9 The whole country should follow the determination of
10 the Imperial Conference without fail.'"

11 You may cross-examine.

12 THE PRESIDENT: This is a convenient time to
13 adjourn, but before we do there are some decisions of
14 the Tribunal I desire to announce.

15 There will be no review of any decision reject-
16 ing a document in ARAKI's case or any other case.

17 All the accused will be deemed to be men of
18 unblemished character except so far as the evidence
19 indicates the contrary.

20 In ARAKI's case further evidence will be re-
21 ceived in reply to the supplementary affidavit of the
22 witness TAKEBE.

23 In HIROTA's case we will receive the evidence
24 of those witnesses who were abroad when his individual
25 case was being presented and whose testimony was not

then available.

1 In OSHIMA's case we will receive the two
2 affidavits which Mr. Cunningham proposes to offer.

3 We will recess for fifteen minutes.

4 (Whereupon, at 1050, a recess
5 was taken until 1110, after which the
6 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Colonel Ivanov.

4 BY COLONEL IVANOV (Continued):

5 Q Mr. Witness, in paragraph 1 of your affidavit
6 you say that you were on the staff of the Kwantung
7 Army under UMEZU from July 1, 1942. Weren't you,
8 Mr. Witness, from September 1941 to July 1942, with
9 the rank of Major General, Chief of the Section of
10 the Kwantung Army Headquarters engaged in the study
11 of the occupation regime on Soviet, Mongolian and
12 Manchurian territories?

13 A As you say.

14 Q This is the same section which formerly was
15 the General Staff Commission which with your partici-
16 pation was engaged in studying the occupation regime
17 on the Soviet territory, isn't that so?

18 A Yes, as you say.

19 Q Thus, Mr. Witness, when you were on the
20 staff of the Kwantung Army from September 1941 to
21 July 1944 you were under General UMEZU, isn't that so?

22 A Yes, as you say.

23 Q Did you enjoy General UMEZU's special confi-
24 dence at that time and do you enjoy it now in your
25 capacity as one of the counsel of the accused UMEZU?

1 A Whether or not I enjoy General UMEZU's
2 confidence depends on General UMEZU's own state of
3 mind and I cannot say anything on that point.

4 Q But General UMEZU asked you to become one
5 of his counsel at this trial, isn't that so?

6 A Yes.

7 Q Isn't an example of the fact that UMEZU
8 especially trusted you the discussion he had with you
9 in 1944 of the question whether UMEZU should or should
10 not accept the post of Chief of the General Staff,
11 about which you write in your affidavit?

12 A I believe he also consulted the Chief of
13 Staff -- his Chief of Staff -- besides consulting
14 myself and, therefore, from that consultation alone
15 you cannot judge whether or not General UMEZU placed
16 confidence in me. As for myself, of course, I have
17 continued my work in the belief that I am trusted by
18 General UMEZU.

19 Q Mr. Witness, tell us, wasn't there an element
20 of favoritism on the part of UMEZU when you were
21 appointed Chief of the Cabinet Planning Board on
22 July 28, 1944? In other words, immediately after
23 General UMEZU arrived in Tokyo.

24 A May I have the date repeated?

25 Q In section two of your affidavit is mentioned

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1 the date July 28, 1945 when you were appointed
2 President of the Combined Planning Board of the
3 Cabinet.

4 A I do not know whether it was because of
5 General UMEZU's recommendation that I was appointed
6 to that post.

7 Q In paragraph 1 of your affidavit you give
8 UMEZU's statement made in July 1944 that he, that is
9 to say, UMEZU, allegedly was against war with the
10 United States of America from the very beginning,
11 isn't that so?

12 A I wrote down what UMEZU had told me on that
13 occasion and it was to that effect.

14 Q Mr. Witness, did UMEZU's statement also
15 include England?

16 A The word America which you found there
17 means, of course, the allied nations and among them
18 England is included.

19 THE PRESIDENT: The word is the United
20 States, by the way.
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1 Q Mr. Witness, do you know whether UMEZU's
2 objections to the entry and prosecution of war were
3 made before the outbreak of the Pacific War or in
4 the first year of that war?

5 A Before this period I had been Chief of the
6 Special Service Detachment in Mukden, and, therefore,
7 I had occasions later also to meet General UMEZU
8 quite frequently. After joining the Kwantung Army,
9 I also had frequent occasions to see General UMEZU,
10 but he was basically opposed to the idea of a war
11 against -- correction: of a Pacific War.

12 THE MONITOR: Strike out "but" and replace
13 it with "and."

14 Q In what year did you begin your work as
15 Chief of Mukden's Special Service Organ?

16 A In August, 1940 to July, 1941.

17 Q Were you under General UMEZU in his capacity
18 as Commanding General of the Kwantung Army as far
19 back as 1940?

20 A Yes.

21 Q Do I understand you correctly, Mr. Witness,
22 that you are unable to give any specific example of
23 UMEZU's objections to the entry of Japan into the
24 Pacific War or objections to the prosecution of that
25 war by Japan?

1 A I have often heard him express such opinions
2 in the course of general conversations.

3 Q Do you know, Mr. Witness, that ULEZU, from
4 the very beginning of the Pacific War, took measures
5 to mobilize all the resources of Manchukuo for the
6 prosecution of that war?

7 A Until the very outbreak of the Pacific War,
8 the Kwantung Army did not know that such a war was
9 going to break out, and, therefore, the Kwantung Army
10 never utilized the resources of Manchukuo for the
11 purposes of preparing for the Pacific War.

12 Q I mean, in particular, the beginning of the
13 Pacific War; I mean the first stage after the out-
14 break of the Pacific War.

15 A After the outbreak of the Pacific War, we,
16 naturally, cooperated.

17 Q Mr. Witness, don't you know that in accord-
18 ance with order issued by ULEZU, Commanding General
19 of the Kwantung Army, on December 8, 1941, TAKEBE,
20 Chief of the Department of General Affairs of Man-
21 chukuo, made public a declaration on behalf of the
22 government pointing out in that declaration the in-
23 separable relations with Japan and readiness to render
24 all sorts of assistance to Japan in the prosecution of
25 the Pacific War with all her resources?

A I know.

1 Q Do you confirm that this was exactly as I
2 said?

3 A I replied to you that it was but natural
4 because, since Manchukuo was an ally of Japan, those
5 measures were steps which, naturally, Manchukuo
6 should take.

7 Q Mr. Witness, was not that measure prepared
8 by UMEZU beforehand as may be seen from the telegram
9 received by him as testified by one of the witnesses
10 at this trial who said that at the end of November
11 UMEZU already knew that the war against the United
12 States of America would soon begin?

13 A Since I was not then in a position of respon-
14 sibility as vice-chief of staff of the Kwantung Army
15 I cannot say for sure, but from what I was able to
16 ascertain later the Manchukuo authorities were very
17 much surprised to hear of the outbreak of the war --
18 correction: of Japan's participation in the war from
19 a general broadcast made on the 8th of December and
20 the declaration to be made by the Emperor of Manchukuo
21 and other necessary preparations were rushed through
22 during the night of December 8.

23 Correction: "Preparations" should be changed
24 to "measures."
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1 Q Are you aware, Mr. Witness, that in November
2 1941 UMEZU received a telegram from Tokyo informing
3 him that the war would soon start?

4 MR. BLAKENEY: If the Tribunal please.

5 THE PRESIDENT: Major Blakeney.

6 MR. BLAKENEY: I suggest this is all wholly
7 beyond the scope of the affidavit.

8 COLONEL IVANOV: Your Honor, in the affidavit
9 is given UMEZU's statement that he, UMEZU, from the
10 very beginning was against war with the United States
11 of America. What I am doing is to try to test the
12 credibility of the witness and the correctness of that
13 statement in the affidavit, and from the replies given
14 to my questions by the present witness I begin to ques-
15 tion the correctness of the statement made in the affi-
16 davit. In such a way, your Honor, my questions have
17 direct bearing upon Section 1 of the affidavit.

18 THE PRESIDENT: I can't see how the question
19 objected to bears on what is said in the affidavit
20 or in any way tests this man's credibility.

21 COLONEL IVANOV: Your Honor, I will pass over
22 to some other question.

23 Q Mr. Witness, did not Manchuria supply Japan
24 in the days of war with food stuffs and various strategic
25 raw materials for munitions industry?

1 MR. BLAKENEY: To that question also and
2 questions of similar nature I object as being beyond
3 the scope of the affidavit.

4 COLONEL IVANOV: Your Honor, I am trying to
5 clarify specific actions of the accused UMEZU in his
6 contributing to the prosecution of the Pacific War.

7 THE PRESIDENT: Objection sustained. The
8 question is disallowed.

9 Q Mr. Witness, did not UMEZU and TOJO in 1942
10 send you in your capacity of Chief of the 5th Section
11 of the Kwantung Army to the south seas area for study-
12 ing combat experience of the Japanese Army?

13 A I was unable to get the interpretation. Did
14 you say the experiences in battle?

15 Q For studying combat experience of the Japanese
16 Army:

17 A I did tour the southern areas but my object
18 was different.

19 Q And what was the purpose of your trip which
20 was arranged by TOJO and UMEZU?

21 A I toured the south on orders from the War
22 Minister. The object of my trip was to inspect con-
23 ditions of military administration in those areas.

24 Q Please give us the areas which you visited.

25 THE PRESIDENT: Oh, Colonel. They were all

1 soldiers engaged in operations and the particular oper-
2 ations don't interest us unless they bear on this affi-
3 davit and they don't appear to.

4 COLONEL IVANOV: Your Honor, I must respect-
5 fully invite the attention of the Tribunal to the fact
6 that all these were specific measures on the part of
7 UMEZU connected with his contributing to the prosecution
8 of the Pacific War and to the further development of
9 Japanese aggression on the continent in particular
10 against the U.S.S.R.

11 THE PRESIDENT: Well, he was just a soldier
12 in that war like other Japanese generals, including
13 the witness. Do you suggest he could refuse to fight
14 if he didn't believe in the war? I suppose he could.

15 COLONEL IVANOV: Your Honor, the present
16 witness in 1942 was major general and he directly
17 executed the orders given by TOJO and UMEZU, and the
18 actions of these two accused are of interest to the
19 Tribunal.

20 THE PRESIDENT: We know the witness and TOJO
21 and UMEZU fought throughout the war. We don't want
22 to know just how they fought and where. TOJO for part
23 of it was War Minister and Prime Minister but he was
24 taking part in the war nevertheless. We know that.
25 We don't want to have the details gone into.

COLONEL IVANOV: I will pass over to the next question,, your Honor.

Q Mr. Witness, aren't you aware that both UMEZU and TOJO were enraptured with the victories of Japanese armies at the first stage of the Pacific War and tried to utilize as soon as possible the combat experience of the Kwantung Army then on the offensive?

Correction: Of the Japanese Army then on the offensive.

A I don't know what the two generals may have thought because I never asked them, but it is only natural that once a war has broken out they thought that the fight must be carried on until victory was achieved. At least that is what I can suppose.

Q I will ask my last question. Mr. Witness, do you know that UMEZU in February, 1942, addressed the extraordinary congress of the Concordia Society in Hsinking with a speech containing directives as an admirer of the New Order in Asia, expressing his admiration for the victories of the Japanese Army and Navy over the armies of the U.S.A. and England?

MR. BLAKENEY: I object to that question as being beyond the scope of the affidavit.

COLONEL IVANOV: I believe, your Honor, that this question of mine meets the assertion that is --

1 directly meets the **assertion** that is made by the
2 present witness in Section 1 of his affidavit.

3 THE PRESIDENT: The question should be allowed
4 but I don't know that the answer will help. It is
5 very difficult to say it isn't within the scope of
6 the affidavit.

7 Q Will you please answer my question, Mr. Witness?

8 A I know that he made a speech before the Con-
9 cordia Association but I do not know the contents of
10 that speech.

11 COLONEL IVANOV: I invite the attention of
12 the Tribunal to exhibit No. 731-4.

13 That concludes my examination of the present
14 witness, you Honor.

15 THE PRESIDENT: Major Blakeney.

16 - - -

17 REDIRECT EXAMINATION

18 BY MR. BLAKENEY:

19 Q Mr. Witness, was the president of the Cabinet
20 Combined Planning Board appointed by the chief of the
21 general staff?

22 A No.

23 Q By whom was he appointed?

24 A By the Prime Minister.

25 MR. BLAKENEY: May the witness be excused?

1 THE PRESIDENT: He is excused on the usual
2 terms.

3 (Whereupon, the witness was excused.)
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1 THE PRESIDENT: Have you any further material
2 on this?

3 MR. BLAKENEY: Yes, sir, I have one further
4 document remaining, the first on my order of proof.
5 It is the affidavit of the witness KANEMITSU, Tsuneo,
6 whose attendance for cross-examination I understand
7 is not required. I offer it in evidence.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document 2961
10 will receive exhibit No. 3709.

11 (Whereupon, the document above re-
12 ferred to was marked defense exhibit No. 3709
13 and received in evidence.)

14 MR. BLAKENEY: I read the exhibit which, omit-
15 ting the formal parts, is as follows:

16 "1. I was Vice-Speaker of the House of Repre-
17 sentatives from May 1937 to August 1939, after which I
18 became Minister for Overseas Affairs and Welfare Min-
19 ister. I was also a member of the Seiyukai party for
20 a long period, and at one time held the position of
21 director of that party. I have been associated with
22 the accused UMEZU Yoshijiro since some time ago; es-
23 pecially while he held the office of Vice Minister of
24 War, my position brought me into frequent contact with
25 him. I am therefore very well acquainted with his

1 character and political opinions, concerning which I
2 shall testify.

3 "2. After the Manchuria Incident such occur-
4 rences as the 15 May 1932 Incident, the Army pamphlet
5 problem and the assassination of Director of the Mili-
6 tary Affairs Bureau NAGATA became rather frequent,
7 giving much concern to us of the political world and
8 the intelligent public in general. In these circum-
9 stances occurred the unprecedented, disgraceful incident
10 of 26 February 1936, giving the political world a
11 tremendous shock and making all leading men anxious
12 over the future of the armed forces. It looked as if
13 in such circumstances it would be most difficult to
14 control the activities of the Army and restore it to
15 its proper condition. The news of Lieutenant General
16 UMEZU's appointment as Vice Minister was therefore
17 welcomed by us.

18 "3. After his appointment as Vice Minister
19 General UMEZU told me that he would effectively control
20 and govern the Army by extinguishing factionalism and
21 by suppressing and preventing 'young officers' movements
22 and restoring the Army to its proper function and con-
23 dition. Soon afterward, however, malicious rumors
24 began to be spread, in the form of writings of unknown
25 origin, many of them attacking the character and actions

1 of Vice Minister UMEZU. On seeing these pamphlets
2 and hearing these rumors, I went to see General UMEZU,
3 showed him the documents and advised him to look into
4 the origin of the rumors and to protect himself against
5 them. This was, I believe, in the spring of 1938. I
6 was told by the Vice Minister that the rumors were
7 entirely groundless, and that although the correction
8 of the Army was no easy task, he intended to carry on
9 no matter what charges might be made or ill things
10 said of him.

11 "4. Concerning General UMEZU's political
12 ideas I am well informed, having had several opportuni-
13 ties to discuss the matter with him. At the same
14 period just referred to, writings appeared charging
15 that the Army disapproved of political parties and
16 desired their abolition. Some of these also I showed
17 to Vice Minister UMEZU, and was told by him that no such
18 idea was entertained by the high officials of the Army.
19 So far as his personal ideas went, he told me they were
20 that military officers should not meddle in political
21 matters; that the Diet should be respected; and that
22 as long as a parliament existed, the existence of polit-
23 ical parties was necessary. So far as my contact with
24 him was concerned, he was always cooperative toward
25 political parties, and he never said to me a word

1 suggesting the disapproval of them or that the Army
2 should participate in such questions."

3 I have remaining in my order of proof one
4 witness who, however, is still unable to attend the
5 Tribunal and whose testimony I shall, therefore, have
6 to defer still further.

7 THE PRESIDENT: Why not tender his affidavit
8 and then let us discover whether any cross-examination
9 is desired?

10 MR. BLAKENEY: I am quite willing to follow
11 that course, naturally.

12 COLONEL IVANOV: Your Honor, the prosecution
13 insists that the witness be produced for cross-
14 examination.

15 THE PRESIDENT: Well, that is the end of the
16 matter.

17 MR. BLAKENEY: With that exception then I
18 rest the case of General UMEZU.

19 THE PRESIDENT: There are some outstanding
20 matters in the defense general phases as well as in the
21 defense individual phases. Among other matters is one
22 dealing with the economic phase. We will take that
23 after lunch if the parties are ready.

24 MR. BLAKENEY: We also have, your Honor, a
25 number of matters reserved in the Soviet phase, but,

1 with the Tribunal's leave, we had proposed putting in
2 first the individual matters and then that general
3 matter.

4 THE PRESIDENT: Well, we will take the economic
5 matter immediately after lunch. I understand that is
6 ready.

7 We will adjourn until half past one.

8 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

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2 The Tribunal met, pursuant to recess, at
3 1330.

4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: Mr. Brannon.

7 MR. BRANNON: On December 19, if the
8 Tribunal please, I requested that the accused
9 SHIMADA be allowed to take the witness stand again
10 for the purpose of answering certain statements made
11 by the accused TOGO. The President said to me that
12 "I think we should decide the question when it
13 arises," and I am renewing my application at this
14 time so that I might have proper time to serve it
15 on the prosecution and interested parties.

16 I would like to add, if the President
17 please, that the issue which is confronting me is
18 not interpreted personally as being material to the
19 case unless the statement of the accused TOGO is
20 taken by the Tribunal as affecting credibility.

21 THE PRESIDENT: We cannot tell what effect
22 we will attribute to any part of the evidence.

23 MR. BRANNON: I renew my application for
24 the accused SHIMADA to take the stand in his proper
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order at the time of reopening.

1 THE PRESIDENT: There is no opposition by
2 the Tribunal to the recalling of SHIMADA so far as
3 I am aware. But we would like for you to indicate
4 what particular statement by TOGO you are referring
5 to.
6

7 MR. BRANNON: It occurs on page 35,838
8 of the record.

9 THE PRESIDENT: Is that the evidence of
10 the threat?

11 MR. BRANNON: Yes.

12 THE PRESIDENT: Mr. Logan.

13 MR. LOGAN: During the presentation of
14 evidence in the economic section of the Pacific
15 phase for the defendant, certain documents were
16 offered and withdrawn upon the suggestion that the
17 prosecution and defense endeavor to attempt to reach
18 an agreement with respect to them. After due con-
19 sideration, it was found that a complete summary of
20 these documents would be a practical impossibility;
21 so the defense and prosecution have agreed that they
22 be offered in evidence and not read, subject, of
23 course, to the approval of the Tribunal.
24

25 Defense document 500-E is a study of the
trade of Japan proper including that with Korea and

Formosa prepared for the Foreign Economic Administration by members of the staff of the United States Tariff Commission in September 1945. The factual information and data contained in this document is offered in evidence and it is requested that any opinions contained therein be disregarded by the Tribunal. We ask that the document be marked for identification and re-offer the following pages in evidence:

10	<u>Page</u>	
11	1 and 2 with respect to Rice	
12	14	Fodder
13	15	Cattle
14	25	Sugar
15	43	Coal
16	55	Fertilizer
17	70	Soda ash and caustic soda
18		
19	73	Salt
20	74	Dyes
21	84	Ethyl alcohol
22	99	Petroleum and petroleum products
23		
24	105	Iron and Steel
25	107	Iron ore
	123, 124	Lead

	<u>Page</u>	
1	108	Pig iron
2	108	Iron and Steel scrap
3	110	Iron and Steel products
4	125	Tin
5	125	Zinc
6	127	Aluminum
7	131	Autos and parts
8	148	Pumps
9	155	Iron manufactures
10	156	Lumber
11	166	Wood Pulp
12	171	Raw cotton
13	220	Rubber footwear

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Defense document 500-E
17 will receive exhibit No. 3710 for identification only.
18 The excerpt therefrom named by the defense attorney
19 will receive exhibit No. 3710-A.
20

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 3710 for identification; and the excerpt
24 therefrom was marked defense exhibit 3710-A
25 and received in evidence.)

1 MR. LOGAN: We ask that defense document
2 500-C be marked for identification and offer in
3 evidence only the marked portions thereof. A summary
4 of the contents of this document and the purposes for
5 which this document is offered are contained on
6 pages 24,850, 24,851 of the record.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document
9 500-C will receive exhibit No. 3711 for identification
10 only; the marked portions thereof will receive exhibit
11 No. 3711-A.

12 (Whereupon, the document above
13 referred to was marked defense exhibit
14 No. 3711 for identification; and the marked
15 portions thereof were marked defense exhibit
16 No. 3711-A and received in evidence.)

17 MR. LOGAN: We ask that defense document
18 500-F be marked for identification and offer in
19 evidence only the marked portions thereof to be
20 found on pages 1 to 3 inclusive, 6 to 15 inclusive,
21 18 to 22. A description of this document and its
22 contents is set forth on page 24,901 of the record.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 500-F
25 will receive exhibit No. 3712 for identification only;

1 and the marked portions thereof will receive exhibit
2 No. 3712-A.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 3712 for identification; and the marked
6 portions thereof was marked defense exhibit No.
7 3712-A and received in evidence.)

8 MR. LOGAN: We ask that defense document
9 500-A-D be marked for identification and offer in
10 evidence the last sentence on page 7 thereof.

11 CLERK OF THE COURT: Defense document 500-A-D
12 will receive exhibit No. 3713 for identification only;
13 and the last sentence on page 7 thereof will receive
14 exhibit No. 3713-A.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 3713 for identification; and the last sen-
18 tence on page 7 thereof was marked defense
19 exhibit No. 3713-A and received in evidence.)

20 MR. LOGAN: We re-offer in evidence defense
21 document 500-A-1 to 500-A-37, summary of which is set
22 forth on pages 24,837-8-9 of the record.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 500-A-1
25 to 500-A-37 will receive exhibit No. 3714.

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3714 and received in evidence.)

4 MR. LOGAN: I might state at this time that
5 all opinions in those documents we are asking the
6 Tribunal to disregard.
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1 We ask the Tribunal to take judicial
2 notice of the following facts as revealed in defense
3 document 1873-A-B-C-L-E-F G:

4 "1. That on May 5, 1911 a Treaty of
5 Commerce and Navigation was entered into between
6 Japan, the United Kingdom of Great Britain and
7 Ireland, the British Lominions beyond the seas and
8 India, providing for trade and commerce between
9 these countries and giving either of the High
10 Contracting parties the right to terminate it
11 separately at any time upon the giving of twelve
12 months' notice to that effect, which treaty was
13 supplemented by agreement between the parties
14 July 29, 1927; that the Treaty and supplement
15 applied to approximately 45 British territories
16 including Canada; that an agreement was entered into
17 concerning commerce and trade between Japan and India
18 signed July 12, 1934, and which provided for six
19 months' notice of termination; that there was a
20 Treaty of Commerce and Navigation between Japan and
21 the Netherlands duly ratified on October 8, 1913,
22 which treaty contains articles guaranteeing most
23 favored nation treatment and the treaty was also
24 applicable to the Dutch East Indies; that this treaty
25 was to remain in force until the expiration of a year

1 after either of the High Contracting Parties gave notice
2 to the other of its intention to terminate it; and that
3 there was an exchange of notes for a commercial
4 modus vivendi between Japan and New Zealand dated
5 July 24, 1928, guaranteeing the most favored nation
6 treatment in the matters of commerce, custom and
7 navigation which was to remain in force for a period
8 of three months after notification of abrogation.

9 We ask the Tribunal to take judicial notice
10 of the following facts as revealed in defense document
11 1733, 1708, 1707, 1712, 1732A, 1732B:

12 1. That on July 26, 1941 the Honorable
13 British Ambassador in Japan delivered a note to Jap-
14 anese Foreign Minister TOYODA signifying the intention
15 of the United Kingdom of Great Britain, the British
16 Dominions and the Government of India to abrogate
17 the Treaty of Commerce and Navigation of April 3, 1911,
18 and the agreements concerning Commerce and Trade between
19 Japan and India, and Japan and Burma, signed respectively
20 July 12, 1937 and June 7, 1937, and indicating that the
21 aforesaid agreements would continue in force for a
22 further period of six months from July 26, 1941.

23 2. That on July 26, 1941 a statement was
24 issued by the British Exchequer that on and after that
25 date banks were prohibited from engaging in business

1 transactions of gold and bonds connected with Japan
2 without permission from the Exchequer; that relevant
3 measures were being taken in the various areas of the
4 British Empire, and that the Dutch Government author-
5 ities were discussing plans for similar measures.

6 3. That on the same day, July 26, 1941,
7 Foreign Minister TOYODA was informed by KAMIMURA,
8 Japanese Charge d'Affaires in England that the British
9 Government had announced a freezing order against
10 Japan's funds.

11 4. That on July 29, 1941 the Honorable
12 Craigie, British Ambassador to Japan, informed Foreign
13 Minister TOYODA of the abrogation of the supplementary
14 treaty between Japan and Great Britain signed July 30,
15 1935, effective upon the expiration of a one-year
16 term.

17 5. That on July 30, 1941 Counsel General
18 ISHIZAWA informed Foreign Minister TOYODA of a decree
19 proclaimed in the Netherlands Indies on July 28,
20 1941, controlling financial transactions of foreign
21 residents.

22 The Tribunal will also recall that during
23 the presentation of the economic section certain
24 documents were admitted tentatively due to the fact
25 that there was not a full representation on the Bench

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1 at that time. The learned prosecutor, Mr. Brown, wishes
2 to say a few words with respect to those documents.
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THE PRESIDENT: Mr. Brown.

1 MR. BROWN: If it please the Tribunal, the
2 prosecution desires to take a practical view of these
3 documents which have been tentatively admitted in
4 evidence. We objected to their introduction in
5 evidence at the time they were tendered for lack of
6 relevancy and in some instances as containing opinion
7 evidence. As these documents were read into the record,
8 the opportunity for saving the time of the Tribunal
9 by decision is lost. To go back now at this late
10 date in the trial and reargue the matters of relevancy
11 would, in the opinion of the prosecution, unnecessarily
12 consume the Tribunal's time. The matters of law
13 connected therewith will be argued in a comprehensive
14 manner in the near future, and for that reason the
15 prosecution is willing to and does withdraw its
16 objections and suggests that the documents be admitted
17 for whatever value they have, and that the Tribunal
18 disregard opinion evidence. At the proper time in
19 the course of the legal argument contained therein,
20 the weight and effect of these documents will be
21 discussed.
22

23 THE PRESIDENT: Mr. Logan.

24 MR. LOGAN: There is one other matter, if the
25 Tribunal please, which was inadvertently omitted in the

1 original opening of the defense case. We ask the
2 Tribunal to take judicial notice of the fact that
3 under the Japanese Criminal Code as it existed during
4 the period covered in the Indictment there is no provi-
5 sion for a crime of conspiracy, as recognized in the
6 Anglo-American law, but that there is a crime of "imbo"
7 (i.e. secret plot), which is comparable to that of
8 "complot" in European Continental Law. That under
9 the Japanese Criminal Code there are three provisions
10 for this type of crime: (1) "imbo" for rebellion
11 (Article 78); (2) "imbo" for crimes against the
12 external security of the state (Art. 88); and (3)
13 "imbo" for private warfare with a foreign state
14 (Art. 93). In these provisions by "imbo" is meant a
15 combination of two or more persons with intent to
16 commit a crime, and when the intended principal crime
17 is perpetrated the "imbo" is absorbed into it and not
18 punishable independently. That the punishment for
19 the aforesaid crimes is imprisonment for not less
20 than one year and not more than ten years.

21
22 During the war the Wartime Special Criminal
23 Law added Article 7, prescribing as punishable any
24 "imbo" with intent to change or disturb the government
25 of the nation, which law was abolished after the war.

THE PRESIDENT: Well, without admitting the

1 relevancy or materiality of any of these matters of
2 which you desire the Tribunal to take judicial notice,
3 the prosecution could admit that they are facts, if
4 they be facts. You need not worry about the judicial
5 notice under those circumstances.

6 MR. BROWN: Your Honor, let me say first of
7 all that the prosecution does not object to the
8 treaties referred to previously by Mr. Logan being
9 taken judicial notice of, although we do dispute their
10 relevancy to this case.

11 THE PRESIDENT: What about the Japanese
12 conspiracy law?
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1 MR. BROWN: As to that, your Honor, we object
2 to that being taken judicial notice of on the ground
3 that, with all respect, this Court should not take
4 judicial notice in this case, in our submission, of the
5 existing law in any national jurisdiction. These are
6 matters, in our submission, that will arise in legal
7 argument, and counsel will be free, of course, to cite
8 legal references at the proper time from any national
9 jurisdiction.

10 THE PRESIDENT: Well, you admit the Treaties
11 without admitting their relevance or materiality.

12 MR. BROWN: Yes, your Honor.

13 THE PRESIDENT: You withdraw your objections to
14 the documents tentatively admitted.

15 MR. BROWN: Yes, your Honor.

16 THE PRESIDENT: But preserve your right to con-
17 test their probative value or their relevance or their
18 materiality in the course of your summation.

19 MR. BROWN: That is so, your Honor.

20 THE PRESIDENT: You make no admission about the
21 Japanese law of conspiracy.

22 MR. BROWN: No, your Honor; and submit that it
23 is irrelevant also.

24 MR. LOGAN: On the question of Japanese law,
25 if the Tribunal please, we contend that it is highly

1 relevant and material, as it was in the Nuernberg case;
2 by that I mean, as the general conspiracy as it existed
3 in Germany was in that case. And it is my recollection
4 that the Tribunal were greatly impressed with the fact
5 that there was no law of conspiracy in Germany, such as
6 is recognized in Anglo-American law, in view of the fact
7 that none of the accused were aware in their own country
8 that such a law existed outside and that they acted
9 accordingly.

10 THE PRESIDENT: You can know international law
11 as part of their own system.

12 MR. LOGAN: The defense contention is, of
13 course, that there was no such crime of conspiracy under
14 international law, but we don't have to go into that at
15 this particular time. But this is a question of whether
16 or not there was such a crime of conspiracy under Japa-
17 nese law which I presume they would presume to have known
18 at the time of these acts which they are alleged to have
19 committed.

20 For that reason, we are asking the Tribunal to
21 take judicial notice of that law. I might --

22 THE PRESIDENT: We will consider that matter,
23 Mr. Logan.

24 MR. LOGAN: I might also say that we have
25 approached this problem of proving this law by asking the

1 Tribunal to take judicial notice of it to obviate the
2 necessity of calling a witness to prove it.

3 THE PRESIDENT: You can produce the sections
4 of the Japanese code that are relevant. That would be
5 your method of proof, wouldn't it, with some certificate
6 from the Japanese office?

7 MR. LOGAN: Our method of proof would be to
8 call a witness, introduce the criminal code in evidence,
9 have the witness testify that there is no section com-
10 parable to the Anglo-American crime of conspiracy, and
11 to show from the sections I have quoted that those are
12 the only sections in the criminal code referring to
13 "imbo" or secret plot.

14 THE PRESIDENT: Probably there will be no con-
15 test about what the criminal law of Japan provides. The
16 prosecution are not disclosing their hand on that yet.

17 MR. LOGAN: I might say that closes the economic
18 phase.

19 THE PRESIDENT: Mr. McManus.

20 MR. McMANUS: Mr. President.

21 In view of your Honor's decision this morning,
22 Mr. President, granting the application to reopen the
23 case of ARAKI because of the submission of the supple-
24 mental affidavit, exhibit 3371, by the prosecution of
25 the witness TAKEBE to his original affidavit, exhibit

670, I now offer defense document 2960 which is an
1 interrogatory of KOSAKA, Yasumasu, a prefectural governor
2 who attended this meeting and which interrogatory will
3 directly contradict the assertions of TAKEBE made in
4 said supplemental affidavit wherein he stated that the
5 accused ARAKI made an aggressive speech at the prefect-
6 ural governor's meeting held at the Toyama Military
7 School in 1933.

8 THE PRESIDENT: Mr. Brown.

9 MR. BROWN: Your Honor, the prosecution objects
10 to the admission of this document and the calling of this
11 witness. On the first occasion when the evidence about
12 this conference was given, the essential fact was stated
13 that ARAKI had made a speech at this conference. In our
14 submission, exhibit 3371, to which this purports to be
15 an answer, is merely an elaboration of exhibit No. 670,
16 and for that reason we see no reason for this witness
17 being called. In our submission, he could have been
18 called in reply to the evidence as disclosed in exhibit
19 670 previously.
20

21 THE PRESIDENT: If you invite us to disregard
22 the supplementary affidavit to that extent, it will make
23 the position easy, Mr. Brown, but if you rely on it,
24 there must be the right to reply to it.

25 MR. BROWN: Your Honor, in order to clarify the

position, I may say the prosecution wishes to adhere to the evidence contained in the supplementary affidavit.

THE PRESIDENT: Then, there must be the right to reply to it as a matter of course.

The objection is overruled and the document admitted on the usual terms.

CLERK OF THE COURT: Defense document 2960 will receive exhibit No. 3715.

(Whereupon, the document above referred to was marked defense exhibit No. 3715 and received in evidence.)

MR. McMANUS: I shall now read exhibit No. 3715:

"Q. Will you state your career as a prefectural governor?

"A. I became the Governor of Fukushima Prefecture in 1923, and then governors of Ehime, Okayama, and Aichi Prefectures, after which I became the Governor of Tokyo Prefecture in 1932 and stayed in that position until 1935."

Can your Honor bear with me a moment? The prosecution would like to know something about this witness.

THE PRESIDENT: Mr. Brown.

MR. BROWN: Your Honor, this is the first intimation we had that the witness was not in court. We

1 imagined that when the document was admitted that the
2 witness would take the witness stand.

3 THE PRESIDENT: They never tender the affidavit
4 for the witness to be called until he is in the box.

5 You should decide later whether you want to
6 cross-examine him, after you have heard the answers to
7 the questions. Then, we may direct him to be called for
8 cross-examination.

9 MR. BROWN: If your Honor pleases.

10 MR. McMANUS: (Reading continued)

11 "Q. Did you attend the Prefectural Governors'
12 Conference in 1933?

13 "A. Yes, I did.

14 "Q. How many prefectural Governors' Confer-
15 ences were there in 1933, and where were they held and
16 when?

17 "A. There was only one in 1933, as was the
18 usual practice, and it was held in April in Tokyo.

19 "Q. What was the ordinary procedure of the
20 Conference when you were the prefectural governor?

21 "A. The Conference was always held at the
22 official residence of the Prime Minister. The conference
23 was usually initiated by an address of the Prime Mini-
24 ster to be followed by the addresses of the State Mini-
25 sters who had under their jurisdiction matters related

to the Prefectural Governors.

1 "Q. Did the War Minister make any address?

2 "A. The War Minister usually made a brief
3 address about the matters under his jurisdiction such as
4 conscription, especially about the health of adults for
5 conscription.
6

7 "Q. At the occasion of the Prefectural Gover-
8 nors' Conference in April, 1933, was there any address,
9 either by the Prime Minister or by other State Ministers,
10 concerning the government policies, especially concern-
11 ing the Soviet Union and Manchukuo?

12 "A. There were speeches by the Prime Minister
13 and the Foreign Minister concerning the official recog-
14 nition of Manchukuo and withdrawal from the League of
15 Nations.

16 "Q. Did the War Minister make any address?

17 "A. The War Minister made a speech concerning
18 aid of the families of soldiers, especially of bereaved
19 soldiers as well as, as was usual, the health of adults
20 for conscription. He also said that at the recent com-
21 bats in Manchuria an unexpected number of soldiers had
22 suffered from frost bite and that the soldiers at the
23 interior of Manchuria were experiencing hardship on
24 account of shortage of supply.
25

"Q. Was there any occasion in 1933 when a

1 Prefectural Governors' Conference was held at the
2 Toyama Army School?

3 "A. Absolutely not.

4 "Q. Well, if it were not the formal Prefectural
5 Governors' Conference, perhaps some other meeting where
6 the Prefectural Governors met?

7 "A. Yes. There was an occasion when the
8 Prefectural Governors, during the recess of the Prefec-
9 tural Governors' Conference, were invited by the War
10 Minister to a lunch at Toyama Army School.

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1 "Q. What was the purport of the invitation?

2 "A. It was to express the War Minister's
3 thanks to the activities of the Soldiers' Relief
4 Association.

5 "Q. What was the Soldiers' Relief Association?

6 "A. It was an association organized with
7 civilians to take care of the poor and needy families
8 of the soldiers, and the prefectural-governors
9 invariably held the position of being advisers to the
10 Association.

11 "Q. Was there any speech made by War Minister
12 ARAKI on the occasion of that lunch party?

13 "A. While we were at the lunch table, the
14 War Minister expressed his thanks to the activities
15 of the prefectural governors in connection with the
16 Soldiers Relief Association. It was more of the nature
17 of a greeting than a speech.

18 "Q. Was Mr. Rokuzo TAKEBE present at that
19 party?

20 "A. Yes, he was.

21 "Q. I will now show you exhibit No. 670
22 and exhibit No. 3371. Will you please state if such
23 matter as is contained in those documents was spoken
24 by the War Minister?
25

"A. No. There was no reference to such

1 matter as this. Only I recollect that there was
2 hanging in the waiting room a map of Manchoukuo, on
3 which was marked the disposition of bandits.

4 "Q. On that occasion of the lunch party,
5 either before or after the lunch, did the War Minister
6 tell the prefectural governors secretly anything
7 about the Soviet Union or Manchoukuo?

8 "A. No. Immediately after we were given
9 lunch, we were shown a new style gymnastic performed
10 by the students of the Toyama Army School and then
11 the party was broken up, and we had no such chance.

12 "Q. Was defendant SUZUKI present at the
13 lunch party?

14 "A. I do not recall whether he was there or
15 not. I only remember about a dozen of Army officers
16 were there.

17 "Q. Did anyone, besides the War Minister,
18 give lecture?

19 "A. There was no lecture by anyone except
20 a greeting by the War Minister at the lunch."

21 THE PRESIDENT: Mr. Brown.

22 MR. BROWN: Your Honor, the prosecution has
23 decided that it does not require the presence of this
24 witness for cross-examination. That of course, your
25 Honor, does not mean that we accept this evidence.

THE PRESIDENT: Mr. McManus.

1 MR. McMANUS: Mr. President, in view of
2 your Honor's further ruling this morning denying the
3 accused ARAKI's motion to reconsider a number of
4 rejected documents, I shall not argue this matter
5 here in court as the matter has been fully discussed
6 in the chambers hearing of yesterday, January 7, 1948.
7 But I do request the Court to permit a notation of
8 this chambers proceeding to be entered in the record
9 so this chambers proceeding may become a part of the
10 transcript.
11

12 THE PRESIDENT: What you have said is sufficient.

13 MR. McMANUS: Now, at this time, if the Court
14 please, I should like to clear up for the record a
15 matter concerning the witness IWAMATSU, Goro which the
16 Court and the prosecution requested me so to do.

17 When IWAMATSU first testified on March 18, 1947
18 during his cross-examination, Page 18,571 of the record,
19 he was asked to produce the real document of 1938
20 which referred to a revision of rules and regulations
21 by the Ministry of Education in 1935 for the inspection
22 of Military Drill and Youth Schools. He stated then
23 that he did not have the copy with him. He was then
24 asked to produce the document later, page 18,571 of
25 the record.

1 When IWAMATSU was recalled to the stand on
2 the 16th of September 1947, page 28,531 of the record,
3 Mr. Carr commented that the document had not as yet
4 been produced. The President stated "Not to produce
5 this further document may possibly be to suppress
6 evidence of lack of credibility." The President
7 further stated on page 28,532 of the record "If his
8 credibility was questioned by the prosecution, that
9 document should settle one way or the other, and it
10 has not been produced. Now he is in the box."

11 I then stated to this Tribunal that the
12 document would be produced as expeditiously as
13 possible.
14

15 I should like to call to the attention of the
16 Tribunal that the document in question, with 16
17 supplements was submitted to Mr. Brown and Mr. Carr
18 shortly after the presentation of ARAKI's case. And
19 I am sure at this time that Mr. Brown will bear out
20 the truth of IWAMATSU's statement concerning this
21 document.

22 THE PRESIDENT: Mr. Brown.

23 MR. BROWN: Your Honor, I should say that
24 when I heard these last remarks of Mr. McManus, it was
25 the first intimation I had that this particular matter
26 was going to be raised just now and therefore what I

1 say is subject to correction. But our recollection
2 is that when t'is document was produced by the
3 witness IWAMATSU it proved to be irrelevant. However,
4 if any further information is desired about it I
5 should like to make a statement later when we have
6 had time to look into the matter a little.

7 MR. McMANUS: It is agreeable to the defense.

8 Now there is just one other point, if the
9 Tribunal please, that I would like to clear up in
10 fairness to the accused ARAKI. I would like to call
11 the Court's attention to one other matter and then I
12 shall conclude my presentation of the reopening
13 evidence.

14 I feel it is incumbent upon me at this time
15 to call to the Tribunal's attention the fact that on
16 page 28,243 that two defense documents, to wit, 674
17 and 2487 were submitted to the Tribunal which were
18 voluntary statements of ARAKI to Mr. Hyder of the
19 prosecution as one exhibit and one was rejected, to
20 wit, 674 and the other accepted, 2487, receiving
21 exhibit No. 3162. It is my purpose at this time in
22 fairness to the accused ARAKI to direct the Court's
23 careful scrutiny to this admitted document so that
24 it will observe that the Nanking Incident referred to
25 in this document was not the same Nanking Incident

1 say is subject to correction. But our recollection
2 is that when t'is document was produced by the
3 witness IWAMATSU it proved to be irrelevant. However,
4 if any further information is desired about it I
5 should like to make a statement later when we have
6 had time to look into the matter a little.

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13 evidence.

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17 and 2487 were submitted to the Tribunal which were
18 voluntary statements of ARAKI to Mr. Hyder of the
19 prosecution as one exhibit and one was rejected, to
20 wit, 674 and the other accepted, 2487, receiving
21 exhibit No. 3162. It is my purpose at this time in
22 fairness to the accused ARAKI to direct the Court's
23 careful scrutiny to this admitted document so that
24 it will observe that the Nanking Incident referred to
25 in this document was not the same Nanking Incident

1 concerning which prosecutor Sutton has endeavored
2 to bring out the perpetration of many atrocities.

3 That concludes my presentation at this time.
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THE PRESIDENT: What is the next matter?

Mr. Yamaoka.

MR. YAMAOKA: May it please the Tribunal, in accordance with the ruling of the Tribunal this morning I respectfully beg leave to present at this time the additional evidence of foreign witnesses in the case of the accused HIROTA, Koki.

I offer in evidence defense document 2790, being the affidavit of former Ambassador Joseph C. Grew, which states the facts concerning his relationship with Mr. HIROTA during his official career, and which has been brought into issue by the prosecution.

THE PRESIDENT: Mr. Comyns Carr.

MR. COMYNs CARR: May it please the Tribunal, in our submission there is no justification for bringing this and eight other affidavits by Mr. Grew which have been served upon us this morning into evidence at this stage. I understand that Mr. Grew is not here, and there was nothing to prevent these affidavits from being offered at the time when HIROTA's case was present.

I have not had time to check the matter fully, but my recollection is that one or more affidavits by Mr. Grew were tendered and rejected during the presentation of that case.

With regard to the first affidavit now tendered,

1 in our submission it is either repetitious, particularly
2 with regard to the introductory paragraph and paragraph
3 3, or consists merely of expressions of opinion. That
4 applies to the whole of paragraph 4 except the first
5 sub-paragraph.

6 With regard to the first sub-paragraph of
7 paragraph 4, my recollection is that an affidavit by
8 Mr. Romer, the Polish Ambassador, who is the informant
9 whose conversation Mr. Grew is repeating in that sub-
10 paragraph, was in fact tendered in Mr. HIROTA's case, and
11 I think admitted into evidence. In our submission,
12 therefore, there is no excuse for offering this document
13 now and no value in it if offered.

14 THE PRESIDENT: Mr. Yamaoka.

15 MR. YAMAOKA: May it please the Tribunal, I
16 wish to state that we did have a former affidavit from
17 Ambassador Grew. It was originally tendered in the case
18 of Baron HIRANUMA. That affidavit contained references
19 in favor of the accused SHIGEMITSU as well as the ac-
20 cused HIROTA. It was, upon objection by the prosecution,
21 rejected at record 29,235-39. Upon the rejection of
22 this former affidavit, counsel for SHIGEMITSU and
23 counsel for this accused made reservations notwith-
24 standing for the tender of the same affidavit in the
25 individual cases of the respective accused.

1 Thereafter, upon presentation during the case
2 of the accused HIROTA, it was again rejected. This was
3 at record 29,376. But at that time counsel made the
4 reservation or request for permission to submit a proper
5 affidavit at a later stage of the trial.

6 About the same time that the HIROTA case was
7 being presented, which was in late September and October
8 of 1947, steps had already been taken to procure these
9 affidavits which are now offered before this Tribunal,
10 and I respectfully invite the Tribunal's attention to
11 the fact that the jurats on these affidavits are dated
12 October 15, 1947, and that they were subscribed to in
13 Washington, D. C., and therefore were not available to
14 us during the presentation of the HIROTA case.

15 Specifically with regard to the objections, we
16 respectfully submit that while the first introductory
17 paragraph may contain repetitious matters, nevertheless
18 it was necessary to qualify Mr. Grew's subsequent state-
19 ments contained in this affidavit, and whatever it is,
20 it only consists of a few lines.

21 As to paragraph numbered 3, the only document
22 that I am aware of at the moment which might be analagous
23 to the data referred to in this paragraph is exhibit
24 3285, record 29,963-5 --

25 I understand from my learned friend Mr. Carr

1 that there are two other exhibits similar to the data
2 referred to in this paragraph, but I do not recall that
3 the last part of this paragraph numbered 3 is covered
4 by any previous exhibit.

5 As to the paragraph numbered 4, the first sub-
6 paragraph, we respectfully submit that the statement of
7 Mr. Grew substantiates and confirms Mr. Romer's affidavit
8 which is exhibit 3293.

9 As to the balance of this numbered paragraph,
10 in our respectful submission the sources of Mr. Grew's
11 statements and the sources of his knowledge and infor-
12 mation are fully set forth for the information of the
13 Tribunal and give an added tenor of authority to the
14 statements contained therein.

15 THE PRESIDENT: The objection is sustained as
16 to paragraph 4; otherwise it is overruled. The balance
17 is admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 2790
19 will receive exhibit No. 3716.

20 (Whereupon, the document above
21 referred to was marked defense exhibit No.
22 3716 and received in evidence.)

23 THE PRESIDENT: That was a majority decision.
24 We will recess for fifteen minutes.

25 (Whereupon, at 1445, a recess

36,994

was taken until 1500, after which the proceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Kraft.

4 LANGUAGE ARBITER (Captain Kraft): If the
5 Tribunal please, the following language corrections
6 are submitted. Your Honor, it is desired that these
7 corrections be included in the record without further
8 reading.

9 THE PRESIDENT: It is so desired. Thank you,
10 Captain Kraft.

11 (The language corrections are copied
12 as follows:)

13 "Reference: Record page 30,615, line 20,
14 and exhibit No. 3331, page 5, line 6. Delete 'August'
15 and substitute 'September.'

16 "Reference: Record page 30,635, line 17,
17 and exhibit No. 3337, page 1, line 22. Delete 'Section
18 Chief' and substitute 'Chief of the Accounts Section.'

19 "Reference: Record page 30,638, line 15 and
20 exhibit No. 3337, page 3, line 3. Delete 'Military
21 budgets' and substitute 'Budget of the War Ministry.'

22 "Reference: Record page 30,639, line 3, and
23 exhibit No. 3337, page 3, line 12. Delete 'had no
24 connection with the Cabinet' and substitute 'was not
25 a member of the Cabinet.'

1 "Reference: Record page 30,640, line 2,
2 and exhibit No. 3337, page 4, line 1. Insert 'the
3 lives and property of Japanese nationals, Japanese
4 legal rights and' between 'protect' and 'the small.'

5 "Reference: Record page 30,640, line 17,
6 and exhibit No. 3337, page 4, line 11. Delete
7 'battles' and substitute 'military operations.'

8 "Reference: Record page 30,641, line 9,
9 and exhibit No. 3337, page 4, line 23. Delete 'North.'

10 "Reference: Record page 30,645, line 20,
11 and exhibit No. 3337, page 7, line 1. Insert 'only'
12 between 'section' and 'on.'

13 "Reference: Record page 30,648, line 24,
14 and exhibit No. 3337, page 9, line 6. Insert
15 'maintaining peace' between 'and' and 'and.'

16 "Reference: Record page 30,651, line 7,
17 and exhibit No. 3337, page 10, line 24. Insert
18 'south' between 'the' and 'western.'

19 "Reference: Record page 30,654, line 14,
20 and exhibit No. 3337, page 12, line 20. Insert 'for
21 there will not be sufficient time for preparation'
22 after 'national defense.'

23 "Reference: Record page 30,656 and exhibit
24 No. 3337, page 13, line 24. Insert: 'on the ground
25 that he was against war, there would arise the

1 possibility of adding greater difficulties to the
2 already difficult situation' following 'had resigned.'

3 "Reference: Record page 35,654, last line,
4 and exhibit No. 3646, section 29, second line. Delete
5 'Germany'; insert 'China.'"

6 THE PRESIDENT: Mr. Yamaoka.

7 MR. YAMAOKA: May it please the Tribunal, I
8 shall read exhibit 3716 as admitted:

9 "I, Joseph C. Grew, being first duly sworn,
10 make oath and say that during my service of ten
11 years as Ambassador of the United States to Japan
12 from 1932 to 1941 I was from time to time in close
13 official and personal contact with Mr. Koki HIROTA
14 whose official service during that period was succes-
15 sively as follows:

16 "Foreign Minister, September 14, 1933,
17 until appointed Prime Minister, March 19, 1936, until
18 appointed Foreign Minister, June 4, 1947," -- I am
19 sure that is a typographical error. It should be
20 1937 -- "until approximately May 26, 1938.

21 "During my association with Mr. HIROTA he
22 said to me on several occasions that good relations
23 with the United States were the 'cornerstone' of his
24 policy. In various ways, notably as follows, he
25 implemented that policy in action.

1 "1. My representations to the Japanese
2 Foreign Office received far prompter and more con-
3 siderate attention than had been the case before
4 Mr. HIROTA took office, and in many instances results
5 favorable to American interests emerged.

6 "2. One such result was the marked toning-
7 down of aggressive anti-American comment in the
8 Japanese press which was reflected in the press in
9 the United States and tended to exacerbate international
10 relations. I knew that this improvement was directly
11 due to Mr. HIROTA's efforts as a result of my repre-
12 sentations to him.

13 "3. On receiving news of the bombing and
14 sinking of USS Panay by Japanese military or naval
15 planes and the subsequent machine-gunning of her
16 officers, passengers and crew by Japanese army
17 launches in December 1937, Mr. HIROTA, as Minister for
18 Foreign Affairs, broke precedents by immediately calling
19 in person on me at the American Chancery and by ex-
20 pressing 'the profound apologies and regrets' of the
21 Japanese Government. He said to me with obvious
22 emotion: 'I can't tell you how badly we feel about
23 this.' This immediate official apology, conveyed in
24 person, went far to ameliorate the gravity of the
25 situation. Mr. HIROTA subsequently took steps to make

1 practical amends for that ruthless attack on our
2 ship and its occupants, notably in conveying to us a
3 written apology and in promptly meeting our demands
4 for a suitable indemnity."

5 I shall omit the balance of the affidavit.

6 I next offer in evidence defense document
7 2790-A, being a further affidavit of Ambassador Grew
8 concerning conversations between him and Mr. HIROTA
9 as Foreign Minister on October 27, 1933.

10 THE PRESIDENT: Mr. Comyns Carr.

11 MR. COMYNS CARR: May it please the Tribunal,
12 in our submission this document is irrelevant and
13 adds nothing of any substance to what is already in
14 evidence. It is part of our case against Mr. HIROTA
15 that it was his business to give smooth assurances to
16 representatives of other nations, which we claim to
17 have proved to be insincere in contrast with statements
18 and actions of his which were not made known to those
19 nations. Many of such instances are already in
20 evidence and it adds nothing to the case on either
21 side to multiply small instances of them.

22 THE PRESIDENT: Mr. Yamaoka.

23 MR. YAMAOKA: If the Tribunal please, I do
24 not believe that the record will bear out the statement
25 that "smooth assurances" had been made by Mr. HIROTA

1 and that thereafter he acted in a manner inconsistent
2 with such assurances. As a matter of fact, in our
3 submission, the record is replete with instances
4 directly to the contrary and this is one of them;
5 and if that is the contention of the prosecution,
6 that statement in itself is sufficient to qualify
7 this affidavit as having very high probative value
8 in the case. We respectfully submit that this affi-
9 davit has a bearing on the Nine-Power Treaty, the
10 question of the Open Door, and the status of Manchukuo.

11 THE PRESIDENT: By a majority the objection
12 is overruled and the document admitted on the usual
13 terms.

14 CLERK OF THE COURT: Defense document 2790-A
15 will receive exhibit No. 3716-A.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 3716-A and received in evidence.)

19 MR. YAMAOKA: With the Tribunal's permission
20 I shall read exhibit 3716-A:

21 "I, Joseph C. Grew, being first duly sworn,
22 make oath and say that in a conversation with Mr. Koki
23 HIROTA, Minister for Foreign Affairs of Japan, on
24 October 27, 1933, the Minister said that he hoped I
25 would always tell him if suggestions occurred to me

1 by which our relations could be improved. I replied
2 that since Mr. HIROTA had asked me for suggestions I
3 thought it wise to bring to his attention, in reply
4 to his inquiry, the importance of giving practical
5 effect to the Japanese assurances of maintaining the
6 Open Door in Manchuria. Mr. HIROTA observed that
7 certain French interests had sent representatives to
8 explore the opportunities for business in 'Manchukuo'
9 and he thought it would be well if American merchants
10 should do likewise."

11 I shall omit the balance of the affidavit.
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1 I next offer in evidence defense document
2 2790-B, being another affidavit of former Ambassador
3 Grew reporting a conversation with Mr. HIROTA as
4 Prime Minister on August 25, 1936.

5 THE PRESIDENT: Mr. Comyns Carr.

6 MR. COMYNS CARR: May it please the Tribunal,
7 we again submit that this document is repetitious and
8 irrelevant. There are already in evidence a large
9 number of assurances by Mr. HIROTA to the same effect
10 as the first paragraph of the document. With regard
11 to the last paragraph, it is merely an exchange of
12 opinions between Ambassador Grew and Mr. HIROTA about
13 the effects in Japan of the February 26th Incident
14 and Mr. HIROTA's opinion about bolshevism in China
15 which has been stated over and over again.

16 MR. YAMAOKA: If the Tribunal please, I do
17 not believe that there is any exhibit in the case
18 referring to the assurances given by Mr. HIROTA to
19 Mr. Grew. It is quite true that he has made similar
20 statements in public addresses before the Imperial
21 Diet and before the various committees of the Diet.

22 THE PRESIDENT: By a majority, the objection
23 is sustained and the document rejected.

24 MR. YAMAOKA: I next offer in evidence de-
25 fense document 2790-C, being a further affidavit of

1 former Ambassador Grew reporting another conversation
2 with Mr. HIROTA as Prime Minister on November 30,
3 1936.

4 THE PRESIDENT: Mr. Comyns Carr.

5 MR. COMYNS CARR: May it please the Tribunal,
6 we make a similar objection to this document. It
7 merely reiterates to Mr. Grew the explanation given
8 as to the Anti-Comintern Pact to the world in general
9 in exhibit 2371, record page 18,398.

10 MR. YAMAOKA: If the Tribunal please, I do
11 not believe that it would be necessary for me to re-
12 mind the Tribunal that during the presentation of the
13 China phase there was considerable evidence relating
14 to the activities of the Communist group not only in
15 China but in East Asia and that much of that evidence
16 was rejected. However, the Tribunal did, in effect,
17 state during the argument on the admissibility of
18 some of those documents that, if any of the accused,
19 whether rightly or wrongly, acted upon the belief
20 that the existence of such conditions menaced Japan
21 and her interests, then evidence to that effect could
22 be tendered later.

23 THE PRESIDENT: By a majority, the objection
24 is sustained and the document rejected.

25 MR. YAMAOKA: I next offer in evidence

1 defense document 2790-D, being another affidavit of
2 former Ambassador Grew reporting a conversation with
3 Mr. HIROTA as Prime Minister on September 1, 1937
4 regarding Sino-Soviet relations.

5 THE PRESIDENT: Mr. Comyns Carr.

6 MR. COMYNS CARR: May it please the Tribunal,
7 prosecution objects to this document. It relates to
8 a conversation about a pact between China and the
9 USSR which is not in evidence and the terms of which
10 or the subject matter of which, in the short time at
11 my disposal, I have not been able to ascertain. In
12 any event, in our submission those two countries were
13 perfectly entitled to enter into a pact, and Mr.
14 HIROTA's views on the subject are immaterial.

15 THE PRESIDENT: Mr. Yamaoka.

16 MR. YAMAOKA: If it please the Tribunal, I
17 do not believe it is necessary to labor the point that
18 there is abundant evidence in the case already to show
19 that the conditions in China vitally affected Japan's
20 actions there in that country. The Communist activity
21 in China has been one of the major -- a matter of
22 major concern in determining Japanese policy vis-a-
23 vis that country. It would seem to me, therefore,
24 that the statement made by Mr. HIROTA as Prime
25 Minister of his own government to Ambassador Grew

1 certainly has probative value and is of assistance to
2 the Tribunal.

3 MR. COMYNS CARR: May I point out that, if the
4 date, September 1, 1937, is correct, he was not Prime
5 Minister but Foreign Minister, and it was after the
6 outbreak of the Marco Polo Incident.

7 THE PRESIDENT: By a majority, the objection
8 is sustained and the document rejected.

9 MR. YAMAOKA: I next offer in evidence de-
10 fense document 2790-E, being another affidavit of
11 former Ambassador Grew reporting a conversation with
12 Mr. HIROTA as Prime Minister -- it should be Foreign
13 minister; I am sorry -- on the same date, September 1,
14 1937, regarding Sino-Japanese relations.

15 THE PRESIDENT: Mr. Comyns Carr.

16 MR. COMYNS CARR: May it please the Tribunal,
17 the substance of this is merely repetitive of evidence
18 given by the witness HORINOUCHI on HIROTA's behalf.

19 THE PRESIDENT: Well, what Mr. Grew says
20 may have more weight with us. I do not say that it
21 has, but it may have. The document is admitted on
22 the usual terms.

23 CLERK OF THE COURT: Defense document 2790-E
24 will receive exhibit No. 3716-B.
25

(Whereupon, the document referred to was marked defense exhibit No. 3716-B and received in evidence.)

MR. YAMAOKA: I shall read exhibit 3716-B:

"I, Joseph C. Grew, being first duly sworn, make oath and say that on September 1, 1937, Mr. Koki HIROTA, Foreign Minister of Japan" -- the affidavit stated, by the way, "Prime Minister," but I stand corrected. It was "Foreign Minister." -- "said that he had explained Japan's precise aims to the Chinese Ambassador and Mr. HIROTA said to me, 'If Chiang Kai-shek will accept these conditions, I can stop the war immediately.' These conditions, he said, are three in number: (1) Good relations with Manchuria. I said, does that mean China's recognition of Manchukuo? Mr. HIROTA replied that juridical recognition might be very difficult for China and that it was not necessary. What Japan desired was good factual relations and the avoidance of the constant friction and trouble which China was creating. I said, 'Then do you mean de facto recognition?' The Minister smiled and said he thought that was about it. He wanted China to recognize Manchukuo's existence. (2) The withdrawal of Chinese troops from North China. If the Chinese troops should withdraw from that area

1 Mr. HIROTA said that most of the Japanese troops would
2 likewise withdraw. They simply wanted to ensure a
3 zone of peace and quiet on the frontier of Manchukuo.
4 I said, 'Does that mean Japanese control of North
5 China?' The Minister said, 'No, ~~it~~ does not,' and he
6 added that Japan visualized no political control but
7 merely a state of peace and quiet. (3) The develop-
8 ment of good relations between China and Japan. I
9 asked him if by this he meant a cessation of anti-
10 Japanese activities and propaganda. He replied that
11 this was precisely what Japan wanted. 'Chiang Kai-
12 shek is weak,' he said, 'and he is in a very difficult
13 position. If China possessed a single strong states-
14 man today our troubles could be quickly solved. If
15 Chiang Kai-shek will accept my conditions I can stop
16 the war immediately.'"

17 I next offer in evidence defense document
18 2790-I, being another affidavit of former Ambassador
19 Grew reporting his meeting with Mr. HIROTA as Foreign
20 Minister on December 17, 1937 arising out of the
21 bombing of the U.S.S. Panay.
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23 THE PRESIDENT: Mr. Comyns Carr.
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1 MR. COMYNS CARR: May it please the Tribunal,
2 the exhibit already admitted, the first one, deals
3 with this matter and so does exhibit 3285, a long
4 extract from Mr. Grew's Diary on the same subject which
5 was admitted. The only new thing in this document is
6 that it refers to a slightly later date, and shows that
7 the untruth of the original explanation that it was an
8 accident had by that time been demonstrated. From that
9 point of view the Tribunal might think it worth admit-
10 ting and I do not press the objection if the Tribunal
11 thinks it worth having from that point of view.

12 MR. YAMAOKA: I shall not press the point on
13 this affidavit except the last paragraph of this affi-
14 davit which shows his lack of knowledge and lack of
15 any participation in any conspiracy.

16 THE PRESIDENT: To understand the last para-
17 graph you must have the first.

18 MR. YAMAOKA: Then I should like to offer the
19 entire document in evidence.

20 THE PRESIDENT: By a majority the objection
21 is sustained and the document rejected.

22 MR. YAMAOKA: I next offer in evidence defense
23 document 2790-F, being another affidavit of former
24 Ambassador Grew reporting the meeting and conversations
25 with Mr. HIROTA as Foreign Minister on December 24, 1937.

also in connection with the Panay incident.

1 THE PRESIDENT: No objection?

2 Admitted on the usual terms.

3 CLERK OF THE COURT: Defense document 2790-F
4 will receive exhibit No. 3716-C.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 3716-C and received in evidence.)

8 MR. COMYNS CARR: Your Honor, I think there
9 is a little confusion, F is the one I think that has
10 been rejected.

11 MR. YAMAOKA: No, it was I.

12 I shall read exhibit 3716-C as admitted.

13
14 "I, Joseph C. Grew, being first duly sworn,
15 make oath and say that on December 24, 1937, Mr. Koki
16 HIROTA, the Minister for Foreign Affairs of Japan,
17 asked me to call on him and he handed me the Japanese
18 note replying to our note concerning the sinking of the
19 U.S.S. PANAY. The Minister said that only a resume
20 of the Japanese note would be published in Japan owing
21 to the effect which it might create in connection with
22 the current hostilities, but that the Japanese Govern-
23 ment has no objection to the immediate publication of
24 the full text in the United States.

25 "In handing me the note the Minister said

1 that the Government is taking every step to meet the
2 desires of the American Government and that the strict-
3 est orders in this connection have been issued to
4 the military and naval forces. He said that the
5 recall of Admiral MITSUNAMI as the officer responsible
6 for the incident was extremely severe punishment be-
7 cause it implies disgrace and the fact that he is no
8 longer competent to command 'on the field of battle.'
9 The Minister furthermore gave me in strict confidence
10 a list of eleven naval officers against whom measures
11 have been taken in accordance with law.

12 "I said to the Minister that I would send
13 him the findings and report of the American Naval Court
14 of Inquiry as soon as received. I expressed apprecia-
15 tion of the direct reports made to me by naval and
16 military officers last night and repeated part of the
17 remarks made to them in my final statement, especially
18 with regard to the dangers of another incident anala-
19 gous to that of the PANAY. HIROTA said rather sadly:
20 'I am having a very difficult time. Things happen
21 unexpectedly.' He did not elaborate this remark. I
22 gathered that it was his earnest hope that his present
23 note would serve toward settling the incident. I said
24 that I would cable the note immediately to my Govern-
25 ment."

1 I next offer in evidence defense document
2 2790-G, being another affidavit of former Ambassador
3 Grew reporting the conversation with Mr. HIROTA as
4 Foreign Minister on December 26, 1937, on the occasion
5 of the settlement of the Panay incident.

6 THE PRESIDENT: Mr. Comyns Carr.

7 MR. COMYNS CARR: The prosecution objects to
8 this document, your Honor, as being entirely irrelevant.
9 We know that it was settled, and the fact that Mr.
10 HIROTA thought the settlement a good Christmas present
11 does not add any value to it.

12 THE PRESIDENT: You have already tendered
13 enough evidence about the accused HIROTA's attitude
14 to that incident.

15 MR. YAMAOKA: I merely desire to point out that
16 this aspect of the settlement has never been presented
17 before. Although similar documents have been tendered
18 I don't recall this particular part of it.

19 THE PRESIDENT: It is so trivial. The objection
20 is sustained and the document rejected.

21 MR. YAMAOKA: Pursuant to the order of the
22 Tribunal, Paper No. 1311, certain interrogatories were
23 propounded to Sir Robert Craigie, former British Amba-
24 sador to Japan, who was in London. His answers were
25 cabled by Mr. Bevin, Foreign Secretary, and thereafter

1 defense document 2846 was prepared. The original was
2 filed in the office of the Clerk of the Tribunal last
3 December. As the cabled replies contained the answers
4 to the interrogatories propounded by defense counsel
5 on behalf of the accused SHIGEMITSU, the original now
6 bears exhibit No. 3555, record 34,541 to 34,542. Fol-
7 lowing the procedure ostensibly approved by the Tribunal
8 in handling this matter for the accused SHIGEMITSU and
9 with the Tribunal's permission, I desire to offer in
10 evidence defense document 2846, which has been drafted
11 on the basis of the aforesaid cables sent and received
12 and which contain the exact interrogatories and replies
13 thereto applicable to the HIROTA case.
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THE PRESIDENT: Mr. Comyns Carr.

1 MR. COMYNS CARR: May it please the Tribunal,
2 in our submission most of these answers are either
3 irrelevant or objectionable. The first two are merely
4 formal. The third, in our submission, is so general
5 as to carry the matter no further.
6

7 With regard to the fourth -- the fourth is
8 dealt with under No. 6.

9 With regard to the 5th, in our submission
10 Sir Robert Craigie's opinion as to whether the efforts
11 of the Foreign Minister were thwarted by the War Office
12 and the Japanese Army in China is irrelevant. It can
13 only be opinion and amounts really to this: "I believe
14 what HIROTA said," but as the results were different
15 he attributes them to the Japanese Army.

16 I have no objection to No. 6-A.

17 6-B is merely repetition of exhibit 2527.

18 7 and 8 merely say that Sir Robert Craigie
19 has no information to the effect suggested in the
20 question. And the last part of the answer -- the
21 last part of answer 8 is merely opinion and should,
22 in our submission, be rejected.
23

24 With regard to answer 9, the first part is
25 unobjectionable but of no value. The last two sentences
are objectionable as being merely Sir Robert Craigie's

1 opinion. He does not profess to know of his own
2 knowledge whether the proposals were negatived by
3 the Japanese Army and was not in a position to know.

4 Answer 10 in our submission is wholly objec-
5 tionable. Sir Robert Craigie is not in a position to
6 know the reasons why the Japanese Government decided
7 not to attend the Brussels Conference, and the last
8 sentence shows it is merely his opinion.

9 No. 11 is merely his opinion.

10 No. 12 amounts to nothing.

11 No. 13, although purporting to be a statement
12 of fact is in reality only an expression of opinion
13 and in our submission can be only an expression of
14 opinion.

15 No. 14 is only hearsay from two unnamed per-
16 sons, similar to that which the Tribunal has just
17 rejected in the case of Mr. Grew who did at least name
18 his informant.

19 MR. YAMAOKA: In reply to the objections, if
20 the Tribunal please, question No. 3, the answer dis-
21 closes the state of mind of the accused in this case
22 and, as I understand it, in a question of conspiracy
23 the state of mind of one of the alleged conspirators
24 does have great bearing upon the guilt or non-guilt
25 of the person involved. Moreover, he stated his view,

1 it so says here, to Ambassador Craigie.

2 As to question No. 5, I do not agree with my
3 learned friend that this is merely opinion. Sir Robert
4 Craigie was the British Ambassador here and was on the
5 scene and observed the entire trend of events in Japan
6 as of that time and it was his business to do so. I
7 do not agree that his statement that his representations
8 were thwarted as set forth in this answer constitutes
9 a statement of opinion.

10 As to 6-B on page 3 the question of the Lady-
11 bird is an issue which was raised by the Prosecution
12 and as Sir Robert Craigie was the Ambassador here at
13 the time he handled this matter specifically with
14 Mr. HIROTA and we think that his answer and his state-
15 ment of the activities between himself and Mr. HIROTA
16 does have probative value.

17 As to questions No. 7 and 8, objection is
18 made that the answer merely states that he had no
19 information. Bearing in mind the position of Sir
20 Robert Craigie at that time and the sources of his
21 information as of that time, we respectfully submit
22 that a negative answer as set forth negates any charge
23 of conspiracy. Moreover, the sources of his opinion,
24 if one may call them such with which I do not agree,
25 in the answer to question No. 8 the statement is made

1 that Sir Robert Craigie knew of HIROTA's policy and
2 his subsequent actions.

3 I believe that sufficiently answers the
4 remainder of the objections.

5 THE PRESIDENT: Mr. Carr.

6 MR. COMYNS CARR: Your Honor, I should have
7 said with regard to questions 7 and 8 that the questions
8 themselves are obviously highly objectionable as in-
9 viting Sir Robert Craigie to forswear the issues in
10 this case which he very properly declines to do.

11 THE PRESIDENT: The objections are sustained.
12 The parts not objected to are admitted on the usual
13 terms.

14 CLERK OF THE COURT: Defense document 2846
15 will receive exhibit No. 3717.

16 (Whereupon, the document above re-
17 ferred to was marked defense exhibit No.
18 3717 and received in evidence.)

19 MR. YAMAOKA: I shall read exhibit 3717 as
20 admitted, omitting the formal parts:

21 "Question No. 1: Please state your name,
22 address and period of service as Ambassador of Great
23 Britain to Japan.

24 "Answer: Sir Robert Leslie Craigie of Possing-
25 worth Manor, Uckwell, Sussex, Ambassador to Japan from
September 1937 to outbreak of war.

1 "Question No. 2: Please state what was the
2 extent of your official and private acquaintance with
3 HIROTA, Koki, during your service as Ambassador in
4 Japan.

5 "Answer: I was in close touch with him from
6 September 1937 until his resignation as Foreign Minister
7 in May 1938; Thereafter I met him occasionally.

8 "Question No. 3" -- oh, no. I am sorry. Six,
9 it should be 6 on page 2:

10 "Please state briefly what Mr. HIROTA did
11 upon the shelling of the Ladybird and the wounding in
12 China of Sir Hughe Knatchbull-Hugessen.

13 "Answer: (A) When I arrived in Japan on
14 September 3rd, 1937, a rupture of Anglo-Japanese
15 relations appeared imminent owing to the tension arising
16 out of the wounding of Sir Hugh Knatchbull Hugesson
17 in China. Although I had not yet presented my credentials,
18 Mr. HIROTA received me immediately to discuss
19 this crucial matter. Subsequent discussions and
20 enquiries having demonstrated beyond reasonable doubt
21 that the shot could only have been fired from a
22 Japanese plane, a full apology was tendered by the
23 Japanese Government, throughout these discussions Mr.
24 HIROTA displaying every desire to reach a just settlement."
25

1 The next document on my order of proof,
2 defense document 2465 will be withdrawn if the Tribunal
3 please.

4 I now offer in evidence defense document
5 2773, being a letter from Baron Bassompierre, dated
6 October 10, 1947, addressed to David F. Smith, Esq.,
7 former American defense counsel for this accused. It
8 will be noted that this letter supplements a former
9 affidavit and sets forth the source of Baron Bassom-
10 pierre's knowledge and information.

11 MR. COMYNS CARR: May it please the Tribunal.

12 THE PRESIDENT: Mr. Carr.

13 MR. COMYNS CARR: This document attempts to
14 supplement the one which my friend has just withdrawn
15 and shows that Baron de Bassompierre admits that he
16 cannot remember any facts to substantiate the expres-
17 sion of opinion which he had included in the former
18 document. He says that twice, once in line 4 and
19 again in the last line but two. The rest of it is
20 merely opinion.

21 MR. YAMAOKA: If the Tribunal please, I re-
22 spectfully submit that Barron de Bassompierre does
23 state that his conviction is based upon the remembrance
24 of a number of conversations with Mr. HIROTA himself.

25 THE PRESIDENT: The objection is sustained

1 and the document rejected.

2 We will adjourn until half past nine
3 tomorrow morning.

4 (Whereupon, at 1600, an adjournment
5 was taken until Friday, 9 January 1948, at
6 0930.)

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